

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SIEW V. Thong, Yue F. Xia)
qiao F. Chen)

Plaintiffs,)

-against-) 08-CV-3469 (TCP (WDW)

LOVELY NAILS NY, INC., d/b/a)
"Lovely Nails," NEW ALWAYS)
NAILS CORP. d/b/a "Always Is)
Nails", MAJOONGMOOL CORP,)
D/b/a "Always Is Nails," J H)
DIVA NAIL & SPA, INC., d/b/a)
"Diva Nails," VIVA NAILS &)
SPA, INC., d/b/a "Diva Nails,")
QIXING LI a/k/a "John Lee,")
GUINING CUI a/k/a "Susan Lee,")

Defendants.)

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DEPOSITION OF YING AI CHE
New York, New York
Wednesday, July 15, 2009

Reported by:
JOMANNA DeROSA, CSR
JOB NO. 23712

July 15, 2009
10:09 a.m.

Deposition of YING AI CHE, held at
the offices of Covington & Burling, LLP, 620
Eighth Avenue, New York, New York,
pursuant to Notice, before Jomanna DeRosa, a
Certified Shorthand Reporter and Notary
Public of the State of New York.

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A P P E A R A N C E S:

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BY: MICHAEL D. YIM, ESQ.

LAW OFFICES OF SUSAN GHIM

Attorneys for the Witness, Ying Ai Che

20 West 121 Street, Suite 2

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BY: SUSAN GHIM, ESQ.

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A P P E A R A N C E S (Continued):

ALSO PRESENT:

SAMI THONG

AMEE MASTER, Urban Justice Center

CARMELA HUANG, Urban Justice Center

RYAN SWEENEY

JESSICA CRONIN

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O K - S O O N D A N G, the interpreter, having
first been duly sworn by the Notary Public,
interpreted from English to Korean and from Korean
to English, to the best of her ability, as
follows:

Y I N G A I C H E, having first been duly sworn
by the Notary Public, was examined and testified
(through the interpreter) as follows:

EXAMINATION BY

MS. KORGAONKAR:

**Q. Thank you for coming here this
morning, Ms. Che.**

**My name is Natasha Korgaonkar and I
work as one of the attorneys for the plaintiffs in
this case.**

A. Yes.

**Q. So, this -- this deposition today
is really just going to be a conversation between
you and me, and there should really, at any point,
only be one of four people speaking.**

A. You said one of four?

**Q. At a time. And so, it really will
mostly just be a conversation with you and me
speaking.**

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CHE

And, of course, Ms. Dang will be speaking the whole time to translate.

A. Yes.

Q. And your attorney, Ms. Ghim is allowed to make objections.

MR. YIM: Objection. Instructions.

Q. I would ask you to allow me to finish any question before you answer them, even if you think you know what I'm going to say.

A. Okay.

Q. And when you have an answer, I'm also going to ask, because the court reporter is writing down everything that we say, that you give me a verbal answer. So, shrugging and nodding doesn't get noted.

A. Yes.

Q. If there's anything that I say at any point that you don't understand, you should stop me and ask for clarification. And if you don't ask me for clarification, I'm going to assume that you understood what I said.

A. Yes.

Q. And it's important that you understand that you're under oath today. You just

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took the oath. So, you're under oath to the same extent as if you were testifying in court.

A. Yes.

Q. And is there -- is there any reason that you can think of today why you wouldn't be able to give accurate and truthful testimony?

A. No.

MS. GHIM: I would like to clarify at the outset that there are certain questions as to specifically personal matters pertaining to Ms. Che, where the court is currently determining on a protective order that was submitted yesterday, and so, we request that those questions remain until the court has contacted us and the court renders a decision.

MS. KORGAONKAR: So, any objections that you make will be noted on the record.

MS. GHIM: Well, those questions that are subject to the determination of a protective order she wouldn't be able to answer until we have a ruling.

MS. KORGAONKAR: Well, she can refuse to answer them, definitely, and that will be noted on the record.

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MS. GHIM: But refusing to answer should not be considered any type of contempt until there is a ruling.

Q. So, I'm not sure that you answered the question. Is there any reason that you can think of today that would prevent you from giving accurate and truthful testimony?

A. I answered -- well, what was your question? I didn't understand.

MS. KORGAONKAR: Can you read the question back?

(The requested portion of the record was read.)

A. No, I do not have.

Q. Are you taking any medications or anything that would impair your ability to testify?

A. No.

Q. Okay. Thank you. And did you meet with anyone to prepare for today's deposition?

A. For today?

Q. Yes.

A. No, no one.

Q. And other than your attorney, have

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you discussed this deposition with anyone?

A. No.

Q. Have you ever taken or -- have you ever been deposed?

A. Oh, no, this is the first time. First time.

Q. And have you testified in court ever?

A. What kind of testifying?

Q. Have you testified before a court of law?

A. You mean as a witness or something? No, it never happened to me.

Q. As a witness or for any other reason.

A. Yes, I did.

Q. Okay. And when was that?

A. I think it has been about two years, yes.

Q. And did you -- were you a party to a lawsuit?

A. No, not like that; not like that. Someone did not have a legitimate identification, so I was asked to do something for that person;

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nothing else.

Q. And you testified in court pursuant to that matter?

A. No.

Q. Okay. Have you ever been a party to a lawsuit?

A. No. No. Never happened to me.

Q. Thank you.

When did you first become aware of this litigation that's happening now?

A. From someone, like a kind of rumor.

Q. A rumor? And who told you that rumor?

A. It was written in the newspaper, as well as talked on TV. Many times it was already talked about.

Q. And which newspaper or television station do you recall what it might have been?

A. Korean Daily News talked about it.

Q. And is that a newspaper -- I'm not familiar with it -- or a television show?

A. As for TV, I was told through another person, but I read myself a newspaper.

That's Korean Daily News. Yes, I read the

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CHE

newspaper myself.

Q. And who is the person who told you about it on television?

MS. GHIM: Objection. Relevance.

A. My sibling, my younger sibling told me about it.

MR. YIM: Objection. Translation.

Q. So, this is the first time that you learned about this. Did you talk about it with anyone else after it?

MS. GHIM: Objection. Relevance.

A. With whom?

Q. With anyone.

A. Well, I never talked about it --

I'll answer to only your question.

Q. So, I'm not clear on your answer. Did you speak with someone else about it?

MS. GHIM: Objection. Relevance.

A. No, I did not.

Q. So, are you familiar with the suit and what it's about?

A. I just learned about it; just lately.

MS. GHIM: Objection. The question

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assumes facts not in evidence.

Q. And have you read either the complaint in this case or the answer to it?

A. You mean the complaint that you sent to me?

Q. No, the complaint that we filed with the court.

A. Yes, before I read it, and I went to court once.

Q. Okay. And did you discuss this suit with lawyers who didn't represent you?

A. No.

Q. And do you know a woman named Susan Lee?

A. Yes, I know.

Q. Have you discussed this lawsuit with Ms. Lee?

A. You mean, about this litigation?

Q. Yes. That's right.

A. Well, I never discussed this litigation with her. Not about the litigation.

Q. And when was the last time that you saw Ms. Lee?

A. Well, I could see her a few days

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CHE

ago.

Q. And do you see her --

A. Well, we can see each other. I do not remember exactly when it was, but I saw her a few days ago.

Q. And how often do you see Ms. Lee?

A. Oh, I don't see her often, but not -- not often, just occasionally.

Q. Would you say that you see her more or less once a week?

MS. GHIM: Objection. Redundant.

Asked and answered.

Q. Do you see her more or less once a week?

A. Not that much, no, I don't see her once a week. We don't have a regular meeting. It's just once in a while we get to see each other. It's not a regular meeting, but we meet to discuss about the business. I think it was at the end of March. I think even before that -- oh, no, after that, probably early April.

Q. And which business are you referring to?

MS. GHIM: Objection. Assumes

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1 CHE
2 facts not in evidence.
3 A. We would talk about the -- the nail
4 salon.
5 **Q. And which nail salon?**
6 MS. GHIM: Objection.
7 MS. KORGAONKAR: You can answer the
8 question.
9 **Q. Diva Nail Salon?**
10 A. Yes.
11 **Q. And where is that nail salon**
12 **located?**
13 A. 240 something on Grand Avenue.
14 **Q. Is it a salon at 240 Glen Head**
15 **Road?**
16 A. Maybe so.
17 **Q. I want to be clear before we**
18 **continue, that when I ask you any questions about**
19 **a person named Susan Lee, I understand that she**
20 **goes by the name Guining Cui, G-U-I-N-I-N-G,**
21 **C-U-I.**
22 **So, if I refer to "Susan Lee," I**
23 **mean that person as well.**
24 A. Yes, I understand.
25 **Q. And if I ever refer to a person**
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1 CHE
2 **Q. And were there any other names that**
3 **you went by at the salon?**
4 A. Nothing else, just constantly
5 Nancy.
6 **Q. And where do you live? What's your**
7 **home address?**
8 A. You mean by current home address?
9 **Q. Yes, that's right.**
10 A. Why are you required to inquire
11 about my home address?
12 **Q. This is just for the record.**
13 MS. GHIM: Objection. Personal
14 information is subject to a protective order.
15 MS. KORGAONKAR: Go ahead. I
16 didn't hear what you were saying.
17 MS. GHIM: I'm going to instruct my
18 client not to answer that question, until the
19 court makes a determination on the protective
20 order.
21 A. Okay. May I talk now?
22 **Q. Yes, please do.**
23 A. When I just sit here, it looks like
24 I was being questioned as sort of a criminal. And
25 your questioning and home address, I have to
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1 CHE
2 **named John Lee, he also goes by the name of**
3 **Qixing, Q-I-X-I-N-G, space, Lee?**
4 MR. YIM: Objection. Foundation.
5 MS. GHIM: I'm objecting. Assumes
6 facts not in evidence.
7 (Discussion off the record.)
8 **Q. Have you ever gone by any other**
9 **names other than Ying Ai Che?**
10 A. For what purpose?
11 **Q. For any purpose.**
12 A. No, not at all. Nothing else
13 since -- I didn't know a Che since I came to this
14 country.
15 **Q. And when did you come to this**
16 **country?**
17 A. You mean to the USA? It was in
18 2001.
19 **Q. Okay. Have you ever gone by the**
20 **name Nancy Chen?**
21 MS. GHIM: Objection. Redundant.
22 Asked and answered.
23 A. After I came here, and also when I
24 was working for the nail salon, I was called as
25 Nancy Che.
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1 CHE
2 answer to all those questions? So, I have to
3 answer or talk about my history to be in this
4 country, my home address, my children, my husband,
5 information to you, today?
6 **Q. We're just getting your general**
7 **background for the record. So, I'm sorry, this is**
8 **not any kind of criminal questioning. These are**
9 **all background questions for the record.**
10 MS. GHIM: Until the court makes a
11 determination, she doesn't have to divulge her
12 personal information.
13 MS. KORGAONKAR: You're free to
14 make any objections and they will be noted on
15 the record.
16 MS. GHIM: I'm going to instruct my
17 client not to answer until the court makes a
18 determination. So, we can call the court
19 now --
20 MS. KORGAONKAR: If you want to
21 call the court now, and bother Judge Wall for
22 it.
23 MR. HAN: She's required to answer
24 the protective order under restricted New York
25 State law.
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1 CHE
2 MS. KORGAONKAR: She's required to
3 answer the questions and your objections.
4 MS. GHIM: She's not required to
5 answer the questions until the determination
6 of the protective order.
7 MS. KORGAONKAR: That's just not
8 accurate, Ms. Ghim.
9 MS. GHIM: I disagree. I think we
10 should go off the record and call the court,
11 which would be reasonable.
12 (The requested portion of the
13 record was read.)
14 **Q. Ms. Che, your attorney has**
15 **instructed you not to answer that question.**
16 **Are you refusing to answer the**
17 **question?**
18 A. No. Well -- when I'm sitting here,
19 and since you're giving me all these personal
20 questions that way -- since you're just inquiring
21 too much about my personal things, I'm kind of a
22 little embarrassed. I thought you would just talk
23 about the lawsuit.
24 **Q. Okay. So, where are you currently**
25 **employed?**

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1 CHE
2 **situation. So, my question is what did you mean**
3 **when you said that you've been the real owner**
4 **since April? I'm not sure what you mean by "real**
5 **owner."**
6 A. Before that, I didn't work for that
7 nail salon. I go there to work every day from
8 April 1st, and as an owner for now.
9 **Q. And when you said that you were the**
10 **real owner as of April 1st, what do you -- I**
11 **really don't understand what you mean by "real**
12 **owner."**
13 MR. YIM: Objection. Asked and
14 answered.
15 MS. GHIM: Objection. Redundant.
16 THE WITNESS: So, what should I
17 answer now?
18 MS. KORGAONKAR: Could you read
19 back the question, please?
20 (The requested portion of the
21 record was read.)
22 A. Okay. Well, before -- I didn't
23 work at that nail salon before April 1st. I didn't
24 manage that nail salon before that. So, what I
25 meant was that I was real owner up to that time

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1 CHE
2 A. I think you should know that I work
3 at a nail salon now.
4 **Q. Okay. And which nail salon?**
5 A. That's Diva Nails.
6 **Q. And that's the same Diva Nails at**
7 **240 Glen Head Road?**
8 A. Yes. Yes, it is.
9 **Q. And do you work there part-time or**
10 **full-time?**
11 A. Regardless of part-time or
12 full-time. I'm the owner of that salon now.
13 **Q. And since when have you been the**
14 **owner?**
15 A. From the 1st of April as your
16 formal -- I mean, a real owner.
17 **Q. What do you mean by "real owner"?**
18 MS. GHIM: Objection. Leading.
19 Assumes facts not in evidence.
20 A. I think your question try to
21 leading me. I know that you know everything about
22 it, so I'd like to ask you to give me just direct
23 questioning.
24 **Q. I'm not trying to lead you**
25 **anywhere. I'm really trying to understand the**
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1 CHE
2 because I didn't really work there.
3 **Q. Okay. And what did you do before**
4 **April 1st?**
5 MS. GHIM: Objection. Relevance.
6 A. I wish you don't question me this
7 way, using leading questions. You know
8 everything, so --
9 **Q. I don't know everything, Ms. Che.**
10 **I wish I did know everything, Ms. Che.**
11 MS. GHIM: Objection. This is
12 covered under the protective order.
13 **Q. I just want to know where you were**
14 **employed before April 1st.**
15 A. Well, I was not employed at all
16 before April 1st.
17 **Q. Okay. Thank you.**
18 **So, when did you start working in**
19 **the nail or spa industry?**
20 A. I start working for my first year
21 after I arrived here.
22 **Q. "Here" in the U.S.?**
23 A. Yes. Yes.
24 **Q. So, just so I understand, you've**
25 **started working in the nail industry in about**
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CHE

2001?

A. Yes, I learned that.

Q. And what are some of the different positions that you've had in the past eight years?

MS. GHIM: Objection. Relevance.

MR. YIM: Objection. Foundation.

MR. HAN: Just to clarify, you're only entitled to object when your privilege is at stake. Otherwise you're supposed to observe. So, it's sufficient when Ms. Ghim objects. That's directed to Mr. Yim.

MR. YIM: I'm entitled to make objections. If you have a problem with that, call the Judge.

MR. HAN: When your privilege is at stake.

Q. Do you remember the question, Ms. Che?

MS. GHIM: I'm going to direct my client not to answer, that's personal information again, subject to a protective order.

A. If you just give me a district question about this matter. You already sent me

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CHE

thick interrogatories, so you should know everything.

Q. Like I said before, Ms. Che. I don't know everything. I wish I did. I'm trying to get some background information about the different positions that you've held in different nail salons through the years.

A. Well, I think there are so many things that you'd like to know about something. Well, what is the purpose or what is good for you to question where I worked before and what I did before?

Q. It's not to pry into your background. This is pretty standard for depositions.

So, I realize that I think you said earlier that you've never been deposed before. I completely sympathetic to the fact that it's a new experience for you. But finding out just a brief overview of the different positions that you've held before, and the different employments is pretty standard background information. I'm not trying to pry.

These aren't trick questions,

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Ms. Che.

A. I do not wish to answer to your such questions, but I'd like you to move to another question.

Q. So, I want to ask you about what happened on April 1st.

MS. GHIM: Objection. Ambiguous question.

A. I just went to work.

Q. So, you became the owner of the salon in Glen Head as of April 1st.

Is that right?

A. Yes, I start working there. As I told you, I just start working from that day for that nail salon. Don't ask me repeatedly.

Q. Okay. And when did you become the owner?

MS. GHIM: Objection. Asked and answered.

A. What was it?

MS. KORGAONKAR: Can you repeat the question?

(The requested portion of the record was read.)

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A. I feel like you're trying to trick me with that question. Is it really important? You want to know about something. Is that really important?

Q. It is important.

A. That fact that I start working there from April 1st, that's really important to you?

Q. Well, the question is: When did the ownership of the salon get transferred to you?

A. I think when I start work at the nail salon, that's the real ownership start.

Q. So, on which -- strike that.

Who transferred the salon to you?

A. Susan was the former owner.

Q. And is she the one that transferred it to you?

MS. GHIM: Objection. Redundant.

A. Yes. Who else? He was the original owner.

Q. And where did that transfer take place?

MS. GHIM: Objection.

A. What kind of process?

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1 CHE
2 **Q. The transfer of the salon.**
3 A. That should be written in some
4 document. We went to the salon, Jong Ho Kim. We
5 went there.
6 **Q. And when was that?**
7 A. That was this spring when we went
8 to see him as a lawyer.
9 **Q. And do you remember the date, more**
10 **or less?**
11 A. Anywhere. I start working before
12 April 1st, so it should be done before that day.
13 **Q. How long before April 1st**
14 **approximately? How is it that you and Ms. Lee**
15 **went to this attorney's office?**
16 A. I would say about 15 days; 15 days.
17 **Q. And was anyone else present?**
18 A. No one else.
19 **Q. So, how much did you purchase the**
20 **salon for?**
21 A. Later it was a \$108,000.
22 **Q. And what do you mean by "later"?**
23 A. I think you know everything, but
24 when I said later was -- the reason I added later
25 was -- we did something already before that day.
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1 CHE
2 A. What do you mean?
3 **Q. For example, what -- strike that.**
4 A. I'm waiting for your question now?
5 **Q. How did you agree to structure the**
6 **transaction?**
7 MS. GHIM: Objection. Assumes
8 facts not in evidence.
9 A. You mean about the business
10 transaction?
11 **Q. Exactly. That's exactly right.**
12 A. So you're questioning in which way
13 we agreed to sell or buy the business. Right?
14 **Q. That's right.**
15 A. Anyway, I still have money to get
16 paid from Susan.
17 **Q. So, how is the transaction**
18 **structured? What was the agreement?**
19 MS. GHIM: Objection. Asked and
20 answered.
21 A. You mean the contract conditions?
22 **Q. Exactly.**
23 A. We didn't have no agreement, but
24 this before I bought the business.
25 **Q. So, you had -- you had no agreement**
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1 CHE
2 When I was with the Jung Ho Kim at his office, we
3 did something before.
4 **Q. What did you do before?**
5 MS. GHIM: Objection. Ambiguous
6 question.
7 A. Well, I expressed that I wanted to
8 own that business.
9 **Q. You expressed that to Susan Lee?**
10 MS. GHIM: Objection. Leading.
11 A. Anyway, I went to see the lawyer
12 and I expressed that I want to get transferred.
13 **Q. And approximately how long was that**
14 **before the time that the transfer actually took**
15 **place?**
16 MR. YIM: Objection. Foundation.
17 A. Quite a while before that. It
18 could be last August, so almost half a year.
19 **Q. Okay.**
20 A. Almost half a year before.
21 **Q. Okay. And what was the agreement**
22 **made between you and Susan Lee about the**
23 **transaction?**
24 MS. GHIM: Objection. Foundation.
25 Assumes facts not in evidence.
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1 CHE
2 **before the transfer of how -- of how money would**
3 **change hands, for example?**
4 MS. GHIM: Objection. Compound
5 question.
6 A. You mean with Susan?
7 **Q. That's right.**
8 A. It's done through the lawyer.
9 That's what I believe, was a formal transaction
10 through the lawyer.
11 **Q. And did any -- did any money change**
12 **hands? Did you exchange money for the**
13 **transaction?**
14 MS. GHIM: Objection. Asked and
15 answered.
16 A. We didn't have any monetary
17 exchange for this business transaction. At the
18 beginning, since Susan told me that she was having
19 hard time with the business, so I loaned some
20 money to her.
21 **Q. Okay. And when was that?**
22 A. That was right after she started
23 the business. I believe that was the spring of
24 2005.
25 **Q. And how much money did you loan to**
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CHE

Ms. Lee?

A. For the following two years I gave her \$120,000 altogether.

Q. I don't think I understand. You gave her \$120,000 at one time?

A. No. No. For over four different times.

Q. "Over," meaning more than four times or greater?

A. No, at four different times.

Q. Okay. And do you remember when those times were? You said that it started in the spring of 2005.

(The requested portion of the record was read.)

A. Yes, I can recall just approximately when they were. One time was in spring of 2005, and the second time was in the fall of the same year. And the following year, the third time, I believe that was summertime and the fall in the same year.

Q. Did you keep any records of the amount that you gave her each of these times?

A. Yes, I had.

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CHE

Q. Are they written records?

A. Whenever I loaned her money four times, I wrote each one.

Q. And where did you write it?

A. That kind of a paper with some writing; a lined one. Well, when I loan such a big money, who wouldn't take down.

Q. That makes sense. Do you still have those records?

A. Because I loaned all that money, everything on a contract that was to be transferred to under my name through the lawyer.

Q. And do you have -- do you still have those notebooks or the lined paper where you kept the record?

A. Well, what I'm saying is, since it's all done through the lawyer, and I didn't think I needed to keep those records, so I just discarded them.

Q. Well, were these records that you said you wrote in a notebook like this one, were those loans administered through a lawyer?

A. I expressed to the lawyer that since I made such a big amount of loan to her and

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CHE

many in some trouble, the business was in trouble, I just asked to transfer the ownership under my name.

Q. But maybe I'm not stating this correctly.

The question is in each of those four times that you loaned money to Susan Lee, you stated that you had records. Do you still have those records?

MS. GHIM: Objection. Asked and answered.

A. I didn't even show those records to the lawyer but, after all done, I threw away.

Q. After what was done?

A. The contract, the contract to have the ownership under my name.

Q. So, I don't understand why you threw them away if you previously said that Susan Lee still does owe you some of that money.

MS. GHIM: Objection. Leading.

A. Because we just concluded that transaction.

Q. But does Susan Lee still owe you some of the money that she borrowed?

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CHE

A. Susan Lee?

Q. Susan Lee, yes.

A. I believe that Susan Lee thinks that way.

Q. Do you think that Susan Lee owes you money?

A. Well, actually, the original contract amount was 135,000, but since the business was down already, I request to lower the price as \$108,000. So, I just thought that was compensated, what she owed me.

Q. You had stated previously that she owed you \$120,000.

A. Yes, she borrowed \$120,000.

Q. So, did she pay any of it back to you outside of the salon transaction?

A. To?

Q. To you.

A. Susan did something to me, paid something extra to me?

Q. My question is besides the transaction of the salon, which was worth \$108,000 --

A. Yes.

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CHE

Q. -- did she pay back any of her debt to you in a different way?

A. Probably. I think she paid for insurance. I think so, as I remember now.

Q. For insurance for what?

A. That was paid for the business insurance, I think so.

Q. So, if I understand correctly, please tell me if I'm not getting this right.

You stated that between spring 2005 and the fall of 2006, Susan Lee borrowed money from you at four different times that totaled about \$120,000?

A. Yes.

Q. And then she transferred the salon to you in the spring of this year that was worth \$108,000. If my math is right, there's a missing \$12,000.

THE INTERPRETER: How much was missing?

MS. KORGAONKAR: 12,000.

Q. That she must still owe you?

A. Yes, that's correct.

Q. And do you have records of the
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CHE

\$12,000 that Susan Lee still owes to you?

A. No, I don't have that. Let me explain. If I knew things were coming out this way, I could just kept that record. And, also, I could demand her to pay back \$12,000. The reason I did what I did is Susan financially -- anyway, she's in difficulty now since she and her business in trouble, and she couldn't pay me back. So, I suggest to take over her business. That's why I didn't ask about that, that once she offered originally 135,000 for that business, but I already use \$108,000 so I didn't want to demand for the balance.

Q. You said that after the transaction of the salon, you threw out the records that you had of Susan Lee's debt to you. Is that right?

MS. GHIM: Objection. Asked and answered.

Q. What kind of records are you referring to? You said that you kept records on a notebook of lined paper referring to the loans of Susan Lee, and after the transaction you threw them out. Is that right?

MS. GHIM: Objection. Asked and
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CHE

answered.

A. Yes, that's correct.

Q. At that time when you threw them out, you were aware of this litigation. Is that right?

A. No, I didn't know this was going to develop this way. If I knew this was coming, I wouldn't do that.

Once I was aware of the protest by the workers for the business --

THE INTERPRETER: I have to ask to repeat it again --

A. I wanted to take over the business.

Q. Why did you want to take over the business after the protests?

A. Because I couldn't get paid from her.

Q. From whom?

A. From Susan, that I loaned to her. If I had known that Susan was this kind of a person, I wouldn't have loaned her the money. I kept asking her to pay back the loan, but I was having a hard time.

Q. And when did you start asking her
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CHE

to pay you back?

A. From 2007 I kept asking her to return the money. She kept saying I would do, repeatedly, but actually she did not.

Q. So, if I understand you correctly, you loaned her this money, you kept asking for your money back, and she never gave it to you?

A. No, she did not. She just told me that she would pay later, and later on that.

Q. And when she agreed with you to transfer the salon into your name to discharge the debt, she didn't tell you about this litigation.

Is that correct?

MS. GHIM: Objection. Assumes facts not in evidence. Foundation.

A. She didn't say that to me, but I learned about that in the newspaper.

Q. After the transfer or before?

A. I learned that before, and I thought maybe I never get paid from her, and that's why I wanted to have that business under my name.

I mean, for me, I had the workers doing some protest and having hard time

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1 CHE
2 financially. It's a headache. And I gave her
3 loan like this. I never loan money like this.
4 It's a headache to return my money,
5 but she didn't, and she said she would do it later
6 on, later on. Never happened.
7 She never mentioned about the
8 travel for that business to me. And when I asked
9 her about this issue, when I asked her, there's
10 something that happening to the business, and how
11 did you find this, and I was told by someone else.

12 **Q. And when did she ask you that?**

13 A. Either way. I told her later on.

14 THE INTERPRETER: I'm sorry. I
15 can't understand when she speaks fast and long
16 with a dialect.

17 **Q. I ask you to try to help our**
18 **translator, that you try to speak a little bit**
19 **slower.**

20 A. We have some break. I need the
21 ladies room.

22 (Recess taken.)

23 THE INTERPRETER: The interpreter
24 has a statement. As I spoke just before the
25 break, when we were off record, it's been
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1 CHE
2 MS. GHIM: I would just like to add
3 if the interpreter does not know what she's
4 saying, asking her to clarify, it's not going
5 to work. You're asking her to clarify what
6 she doesn't understand. If she'll just note
7 for the record.
8 MR. HAN: We'll leave it up to you.
9 If you don't understand, make it clear to us
10 that you don't understand. You can ask a
11 clarifying question, make clear.
12 THE INTERPRETER: Ask each time
13 that I need to clarify with the witness or
14 not?
15 MR. HAN: Don't translate anything
16 that you don't understand. If you do
17 understand, if you translate it, we'll assume
18 that you did understand. Ask her to clarify
19 it.
20 MS. GHIM: Clarifying isn't going
21 to resolve the situation. If she doesn't
22 understand, she doesn't understand.
23 MR. HAN: Let's leave that up to
24 her.
25 MS. KORGAONKAR: If I'm not
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1 CHE
2 difficult for interpreter to interpret this
3 witness because she has certain accent and
4 dialects, and also speed, which is not from
5 standard Korean. I believe she's from China.
6 And I've been interpreting Chinese Korean
7 terms over the years. Still, this is a lot
8 harder than all those witnesses from before.
9 MR. HAN: Just to clarify, though,
10 the statements that you've made on behalf of
11 her have been what you understood her to say,
12 even though it's been difficult?
13 THE WITNESS: It's been difficult,
14 but I've done my best. That's why I have to
15 ask her to clarify a certain word. That's not
16 real standard Korean.
17 MR. HAN: If you don't know what
18 she's saying, you should clarify.
19 THE INTERPRETER: So, should I ask
20 your permission every time since?
21 MS. KORGAONKAR: I'm comfortable
22 with your judgment. We'll ask Ms. Che, for
23 the benefit of our interpreter, if we just
24 speak a little bit slower, because she's
25 having trouble.
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1 CHE
2 mistaken --
3 MR. HAN: Let's be really clear
4 here. If you don't understand, you don't have
5 to say anything. That's fine. We're agreeing
6 on that.
7 MS. GHIM: If you don't understand?
8 MR. HAN: If she doesn't
9 understand, I don't think she needs to say
10 anything.
11 MS. GHIM: Because my client isn't
12 making a statement.
13 MR. YIM: She doesn't have to say
14 anything more than "I don't understand."
15 MS. GHIM: Okay.
16 MS. KORGAONKAR: And I think if I'm
17 not mistaken, and correct me if I'm wrong,
18 that part of what you said with the difficulty
19 was accent and speed.
20 THE INTERPRETER: Yes.
21 MS. KORGAONKAR: So, to the extent
22 that Ms. Che can repeat something, that's
23 fine.
24 MR. YIM: If she asks her to repeat
25 or slow down --
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1 CHE
2 MS. KORGAONKAR: But as opposed to
3 just did you understand what I said --
4 THE INTERPRETER: And if you make
5 it shorter each statement, it will be helpful.
6 MS. KORGAONKAR: If you could just
7 translate to Ms. Che that we're going to go a
8 little slower.
9 A. Yes.
10 **Q. Before we broke, we were talking**
11 **about your loans to Susan Lee.**
12 A. Yes.
13 **Q. And you said that starting in the**
14 **spring 2005 that you made a series of loans to**
15 **her.**
16 A. Yes.
17 **Q. Now, in what form did you make**
18 **those loans?**
19 A. I just wrote down in that kind of
20 notebook how much I loaned her.
21 **Q. And what I meant by "form" is I**
22 **meant was it cash or check?**
23 A. It was in cash.
24 **Q. So, were each of the four loans for**
25 **about the same amount?**

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1 CHE
2 A. No.
3 **Q. Do you remember approximate amounts**
4 **corresponding to the approximate four times?**
5 A. Yes, I do remember. Yes.
6 **Q. So, could you just tell me how much**
7 **it was each of the four times?**
8 A. The very first one was -- which one
9 you requested in spring, that was for \$50,000 I
10 paid for her.
11 **Q. And just to be clear, that was**
12 **spring 2005?**
13 A. Yes. That was \$50,000 at the time.
14 **Q. Okay. Continue.**
15 A. The same year fall, fall in the
16 same year, I gave her \$30,000. Next time, which
17 is the time I gave her \$20,000, it was 20 each
18 time, and \$40,000 the following year.
19 **Q. I'm sorry. The third time was**
20 **20,000. And was that the summer of 2006?**
21 A. Yes, once in summer, and then a
22 time in the fall.
23 **Q. Okay. Thank you.**
24 **Where did you take the cash out**
25 **from? That's a lot of cash.**

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1 CHE
2 MR. YIM: Objection. Commentary.
3 MS. GHIM: Objection.
4 A. What I'm saying is I would answer
5 when you inquire about where's the cash from, but
6 I feel it's very unfair to me since I'm being
7 questioned with these kinds of questions.
8 **Q. Well, I don't mean the source of**
9 **it. Was it from the bank itself or from an ATM?**
10 A. What happened was the Chinese
11 people has a tendency to keep money at home rather
12 than at bank.
13 We had a source of money, since I
14 worked, as did my husband, and as did my two
15 daughters. So, we had some money at the time.
16 And our Chinese, they don't like to put money in
17 bank. We just keep money at home. That's our
18 habit. Sorry.
19 **Q. There's no need to apologize.**
20 **Thank you.**
21 **So, did you give Susan Lee a copy**
22 **of the records of these loans that you kept for**
23 **yourself?**
24 A. I do not recall if I gave her any
25 copies from those kinds of records. I do not

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1 CHE
2 recall at all.
3 **Q. Do you generally loan money to**
4 **other acquaintances?**
5 MS. GHIM: Objection. Overly
6 broad. I'm going to instruct my client not to
7 answer, and this is personal information and
8 subject to the determination of the protective
9 order.
10 A. I think so, too.
11 **Q. So, are you refusing to answer the**
12 **question?**
13 A. Yes. I don't want to answer that
14 kind of question inquiring if I loaned to other
15 people.
16 MS. KORGAONKAR: I'm going to ask
17 Ms. Ghim that you not coach your witness.
18 MS. GHIM: I didn't coach her.
19 MS. KORGAONKAR: Through your
20 objections you are. It's clear because she's
21 using your same language.
22 MS. GHIM: I made an objection.
23 MR. YIM: She stated grounds.
24 MS. GHIM: I stated grounds for my
25 objection. That wasn't coaching.

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Page 46

CHE

Q. So, would you know of any record besides your own that were kept of these loans?

A. No.

Q. And did you ask for interest on the loans?

A. Well, at the time she was whining and whining because the business was in trouble, and I was sympathetic with her. I'm kind of -- I'm kind of a mild person. So, we didn't think about talking about the interest. I just wanted to help with her.

Q. Did you ask her what she was going to use the money for?

A. Yes, I did. Yes.

Q. And what was she going to use it for?

A. First, she said why she would just open the business. She was having hard time. And also she had debts to someone else, so I helped her out.

Besides that -- oh, actually, the first of nine months is since she opened the business, she had to pay rental, but she actually could not operate the business.

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Page 47

CHE

Q. And which business is this?

A. The business that we're talking about.

Q. The business at Glen Head Road?

A. Yes. Yes. It is.

Q. So, she needed this -- I'm just trying to clarify. She needed this money from you in the beginning for the business because it was not doing well?

A. She was really having hard time because she had some money, but it was not sufficient to open that kind of big business. And, also, she could not get the permit from the authority, but had to pay the rental every month without operating the business.

Q. Which permit was it that she couldn't get?

A. As far as I was told, she could not get the permit because of an electrical matter or something else. And that's what I heard, especially the electrical matter.

MR. YIM: Objection. Move to strike. Hearsay.

Q. So, when -- at the time that you
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Page 48

CHE

made the first loan to Susan Lee in spring of 2005, how long had you known her?

MS. GHIM: Objection. Asked and answered.

A. How long was it? I think I start being acquainted with her from 2003.

Q. And how well would you say you knew her between 2003 and the first loan?

A. I think she was working at a restaurant, and that's when we got known to each other. When I saw her the first time, I thought she was kind of conservative and a decent person. And she used to call me big sister, sister, and she was nice to me.

Since we got acquainted that way already. And when I learned that she was hard time, still she was very friendly, calling me a big sister, sister. So, I have -- I feel like I had to help her. So, at the time she made me feel so sympathetic because she was having such a hard time with her business, new business, and she was crying and whining about it to me. So, I helped her that way the very first time.

From the second loan, I start

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Page 49

CHE

thinking really I have to give -- make this loan to her or not. I was kind of hesitating but I felt that I already gave her a loan. Frankly speaking, at the time I felt that I would be able to get money back since she had the business. And during that period of time -- since I already gave her a loan, I didn't want to stop. And I believe that she could pay me back because she owned a business. I thought that I could get her business in case.

Q. And when you became worried about whether she could pay her back, did you approach her about it?

A. Yes. So, from the year 2007 I start asking her for money back.

Q. But not before 2007?

MS. GHIM: Objection. Asked and answered.

A. I just felt comfortable since I knew she had a business. I felt comfortable about that.

Q. What did you say to her the first time you approached her about it?

A. I said it's already been a while

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1 CHE
2 since you opened the business, so why don't you
3 return my money? That's what I asked her.

4 **Q. And what was the explanation that**
5 **you received?**

6 MS. GHIM: Objection. Hearsay.

7 A. She promised that she will pay me
8 back, since she could get some loan, or she had
9 something else that she had to spend some money.
10 She didn't have enough money at the time.

11 **Q. What was the other thing that she**
12 **had to spend money on?**

13 A. Well, what happened was there was
14 some flood or leaking of water into the business
15 premises, so something she needed. That's what
16 she said.

17 **Q. And did you accept her answer to**
18 **you that time?**

19 A. Yes, at the time I accept that; at
20 the time.

21 **Q. When is the next time you**
22 **approached her about the money?**

23 A. After that, I often asked her to
24 return my money.

25 **Q. Did you -- how often did you see**

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1 CHE
2 MR. YIM: Objection to form.

3 A. Yes, that's correct. Correct. I
4 think so. I cannot trust her anymore.

5 **Q. Do you have any current business**
6 **relationship with her?**

7 A. Well, the business, it just became
8 mine now; totally my own ownership. So, I do not
9 have any -- why should I have any business
10 relationship with her now?

11 **Q. Does Susan Lee work at the salon**
12 **right now?**

13 A. No.

14 **Q. Does she ever come there?**

15 A. Since I started working at the nail
16 salon since April 1st, she came in a few times.
17 She visit the nail salon a few times.

18 **Q. Only to visit or to work?**

19 MS. GHIM: Objection. Asked and
20 answered.

21 A. She rarely worked. Since I'm the
22 owner, she just hung around and say hello to the
23 customers. That's it.

24 **Q. So, going back to when you**
25 **purchased the salon, the business, before that**

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1 CHE
2 **her?**

3 A. I didn't really see her in person,
4 but I talked on the phone. Once in a while I saw
5 her directly to demand the money back. Now, I
6 learned that she is the kind of person who
7 wouldn't return the money. When she needed my
8 help for money, and then she was crying and
9 whining, if she borrowed money that was from me,
10 she should have gave me back money when the
11 business was running, at least the part of my
12 money.

13 However, she kept making excuses
14 I'll give you the money, some other time
15 repeatedly, but she did not.

16 Besides this matter, I mean, I just
17 took over her business instead of the loan, but
18 with this kind of situation, I've been having a
19 really hard time.

20 **Q. Did your friendship with Susan Lee**
21 **suffer as a result of all of this?**

22 A. Of course. We came apart, of
23 course.

24 **Q. Is it fair to say that some of the**
25 **trust between you has eroded?**

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1 CHE
2 **time that you purchased it, did you examine the**
3 **financial records?**

4 A. Well, anyway I just took over that
5 business by force, in compensating the loan.

6 MS. GHIM: Objection to
7 translation.

8 (The requested portion of the
9 record was read.)

10 (Discussion off the record.)

11 **Q. So, you didn't look over the**
12 **financial records of the business when you took**
13 **it?**

14 A. Well, I wouldn't just say that I
15 didn't look at the financial records, but what I
16 did was she didn't -- she didn't comply to my
17 request for money back repeatedly, and some
18 protest outside the business. So I thought maybe
19 it's a little risky. I suggest to her, I said if
20 she could not pay back, so I suggest to her -- I
21 asked her to put my name on the business account
22 at the bank.

23 **Q. And when did you ask that?**

24 A. I would say it was around last
25 August. I think so.

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CHE

Q. So, if you first thought about transferring the salon to your name in August, how come the transfer didn't take place until so much later?

A. So, since she was not returning my money, I suggest that we go to the bank, and we went together to the bank to insert my name on the business account, and I asked her just to give me -- that business to me.

Q. Could you clarify for me, that's what happened in August. Is that correct?

A. Not long after I asked her to add my name under her business account, I ask her to transfer the business to me.

Q. Okay. But if you could just, before we go on, clarify for me that's what happened in August. Is that correct?

MR. YIM: Can we have the question repeated?

(The requested portion of the record was read.)

A. Okay. After she add my name under the business account at bank, it was about one or two months after I ask her to give me that

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CHE

business.

Q. So, if you could just answer with a month to help me understand. You asked her to do it in which month, and she did it in which month?

MS. GHIM: Objection. Compound question.

A. When I ask about the business, it happened about a half year later.

Q. So, I really need to know about the time. Was it about August?

A. I think it was around September or October I asked her or transferred the business.

Q. Thank you. That helps.

So, if it was in the fall, how come the actual transfer didn't take place until this spring?

A. Well, I am trying to say when I kept demanding her, she was backing up, excusing on the landlord. The landlord won't allow this and she refused to transfer that business under my name, repeatedly. And she's just talking about the landlord or something else. She kept delaying the transfer. When I asked her now, she didn't have any choice except to transfer the business

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CHE

after such a delay. I just gave my money away and am having a hard time myself today here.

Q. So, you just said -- and I want to understand what you said -- that she finally agreed to transfer it, when she didn't have a choice. What did you mean by that statement?

A. When I think back now, that's what I learned. When I think back now, oh, that's why she did it.

MR. YIM: Objection. Motion to strike. Speculation.

Q. I don't think I understand.

MS. GHIM: Objection. Ambiguous question, if that was a question.

A. You give me so many questions, it makes me confused too.

Q. I'm sorry.

A. Besides that, I never thought this kind of thing happened to me. When you give me questions, I have to think back to think about it.

MS. KORGANOKAR: I understand.

(The requested portion of the record was read.)

THE WITNESS: Yes, that's right.

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CHE

Q. So, I don't understand. What is why she did it?

MR. YIM: Objection. Lack of foundation.

A. Well, she yielded the business, as I demanded.

Q. Because of your demand. Is that right?

A. Yes, because I demanded it. You know, when could I get paid the money that I gave to her? Looking over that situation, I didn't have any other person to ask money to.

Q. When did Susan Lee finally tell you that she would transfer the salon to your name?

A. That was this spring when she agreed to transfer the business to me.

Q. And how long after she agreed to it, did you actually go -- strike that.

How long after she finally agreed to it, to the time that you finally went to the attorney?

A. Not long after; not long after that.

Q. Did she seem like she was in any

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CHE
kind of hurry?

MS. GHIM: Objection. Leading.

MR. YIM: Objection.

A. She kept delaying about a half a year, about a half a year, and then finally she agreed to me. Yes.

Q. Did she offer you any reason for why she agreed?

A. She didn't have any other way except to give up the business. And I kept asking her to return my money.

Q. So, you don't -- strike that. Do you know what changed that caused Ms. Lee to finally agree?

MS. GHIM: Objection. Leading.

MR. YIM: Objection. Calls for speculation.

A. I did not say -- I did not tell her to change her mind. I could not change her mind. I just said that since you have a business, I'd like to take the business.

I'm just having a hard time like this. After I gave loan, she never paid me on time and gave me such a hard time like this. She

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CHE

did something wrong, but I'm having a hard time instead of her.

(Luncheon Recess: 12:21 p.m.)

MS. KORGAONKAR: It's now 1:34 and we're back on the record. I just want to remind you that you're still under the same oath that you took this morning.

A. Yes.

Q. Are you familiar with a corporation entitled J.H. Diva?

A. You said J.H. Diva?

Q. That's right.

A. I'm not that familiar, but when I ask her to add my name for the business, that's when I learned about that.

Q. Okay. And can you clarify by "her" you mean?

A. You're referring to the J.H. Diva.

Q. So, is it correct that the first time that you heard of J.H. Diva was from Susan Lee?

A. Yes.

Q. And what did she tell you about J.H. Diva?

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A. Well, she didn't directly mention about the J.H. Diva. I knew that business as just a nail salon. Nothing like J.H. Diva or any kind of diva.

MS. GHIM: Objection to translation.

A. Later on I learned the business name J.H. Diva while or after we processed the transaction.

(The requested portion of the record was read.)

Q. Just to clarify, you had never heard of J.H. Diva before that transaction. Correct?

A. I had never heard of it. That was the very first time that I heard. All I knew was that she was just running a nail salon. I didn't know anything about J.H. Diva or anything.

Q. Okay. I'm going to show you a document.

(Che Exhibit 1 marked for identification.)

Q. Do you recognize that document?

A. Yes, the signature is mine.

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MS. GHIM: Counsel would like to view the document.

A. This is correct, that I signed on it.

MS. GHIM: Just one moment.

MR. YIM: Could we have copies of the marked exhibit? You could wait until after.

Q. So, do you remember signing that document?

A. Yes. It looks like this was done when I was with the lawyer.

Q. If you had never heard of J.H. Diva prior to the transaction, why did you assign the contract of the transaction to that corporation?

MS. GHIM: Objection to the question. Leading.

MR. YIM: Objection. Foundation of the document.

A. I told you since we agreed to transfer the business, we went to the lawyer's office during the transferring process. I was told to sign here, so I did it.

Q. Did you know what signing on that

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CHE
document meant?

MS. GHIM: Objection. Foundation.

A. Well, the business was sold at \$108,000. What I did was to sign to get the ownership of the business. That's how I signed.

Q. Did you know, at the time that you were signing it, that you were assigning that contract to a corporation called J.H. Diva?

MR. YIM: Objection. Foundation.

A. Well, I was just told to sign here, since I was getting -- since I was buying the business.

I was just asked to signed here to buy the business.

Q. Did anyone explain to you, before you signed it, what it was?

A. Nobody explained what it was. I was not told what it was.

Q. Did you ask what it was?

A. I didn't know what was a J.H. Diva or what it was. I just signed to get ownership of the business that day.

Q. And are you able to read English language documents?

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CHE

A. I don't know anything. Not a single thing.

Q. So, do you have no ability to read the English language?

MS. GHIM: Objection. Asked and answered.

A. Not at all.

Q. What did Susan Lee tell you about J.H. Diva?

MS. GHIM: Objection. Foundation.

A. I didn't have any idea about J.H. Diva, even while we were doing something there.

Q. You had previously said that you had never heard of J.H. Diva until after the time of the transfer. Is that correct?

MS. GHIM: Objection. Misstates her earlier statement.

A. Yes. Yes.

Q. So, when did you first hear of it; on what occasion?

MS. GHIM: Objection. Asked and answered.

A. Well, frankly speaking, even when I was just signing on here, I wasn't told about this

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CHE

J.H. Diva or whatever here. I just was told to sign to get the ownership of it.

Q. Right. We've established that you signed that.

My question is: When is the first time that anyone ever mentioned J.H. Diva?

MS. GHIM: Objection. Asked and answered.

A. What happened was even though what is this and that -- but I just signed it because I was getting the business. My current business name is Diva Nail. When I tried to change the business title, it wasn't that convenient for me because I had to change even the sign outside or something else. So I just kept the first name, Diva, then changed the later part. That's how I changed the business name this time.

Q. And what did you change it to?

A. I kept it at first with Diva Nail. But since my name, the initial is Y and A, so I put Diva Nail YA, Incorporated. Yeah, that's what happened.

Q. So just so I understand, you were never the president of a corporation called

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CHE

J.H. Diva?

A. No, I never been the president until this April 1st. I don't know anything --

MS. GHIM: Objection to translation.

THE INTERPRETER: What is the objection? I'd like to know.

MS. GHIM: She did not say that she became president on April 1st of J.H. Diva.

MR. HAN: Let the interpreter --

THE INTERPRETER: She didn't mention president of J.H. Diva. But she said she never been president until this April 1st. It's different from president of J.H. Diva. Okay. So it's not an inaccurate translation.

Can I give you a question? I think that counsel speak Korean, but she's not understanding exactly what the witness is saying. That's my feeling.

MR. HAN: Which counsel are you referring to?

THE INTERPRETER: That or whoever, both.

MR. HAN: Let the record show that
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1 CHE
2 you're referring to Ms. Ghim.
3 THE INTERPRETER: Objection to
4 translation, but they're not exactly hearing
5 what the witness said.
6 MS. KORGAONKAR: Your objection is
7 on the record. Thank you.
8 MR. YIM: Can we just repeat the
9 question. Go back and repeat the question.
10 (The requested portion of the
11 record was read.)
12 THE INTERPRETER: I think that
13 she -- the witness didn't understand your
14 question clearly.
15 MS. KORGAONKAR: I'll repeat that
16 question.
17 MR. YIM: Thank you. Appreciate
18 it.
19 **Q. The question was: Have you ever**
20 **been the president of a corporation called**
21 **J.H. Diva?**
22 A. No, never. I've never been a
23 president for that.
24 **Q. Are you the president of any**
25 **corporation?**
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1 CHE
2 Can I give you a question?
3 **Q. Sure.**
4 A. What is the relationship between
5 J.H. Diva and me? Why you are questioning about
6 this so seriously?
7 **Q. Well, that's actually exactly what**
8 **I'm trying to understand because signing that**
9 **contract gave the salon away.**
10 MR. YIM: Objection.
11 A. Yes, that's what I understood, too.
12 **Q. I don't understand why you gave the**
13 **salon away to a corporation that you had never**
14 **heard of.**
15 MS. GHIM: Objection.
16 Characterization.
17 MR. YIM: Objection. Argument.
18 A. Well, I am still not familiar with
19 the regulation, and I didn't even understand this
20 properly.
21 **Q. Okay. So you had mentioned a**
22 **corporation called Diva Y.A. When did you**
23 **incorporate that business?**
24 A. Y.A.? I just added myself. I
25 didn't create for other people. I created my own
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1 CHE
2 A. No, not me.
3 **Q. Now, when you signed that document,**
4 **did you understand that signing it on March 19th**
5 **meant that you were selling your interest in the**
6 **salon to J.H. Diva?**
7 A. When I purchased the business --
8 you're asking if I understood I was becoming
9 J.H. Diva's president when I purchased the
10 business. Right?
11 **Q. No, that's not -- that's not right.**
12 **The question is: Did you**
13 **understand that you assigned the contract by**
14 **signing that document -- strike that.**
15 **The question is: When you signed**
16 **that document that you have, did you understand**
17 **that you were assigning the rights of the sale**
18 **contract to a corporation called J.H. Diva?**
19 MR. YIM: Objection to form.
20 A. I didn't think seriously.
21 **Q. You didn't think seriously about**
22 **what?**
23 A. I thought that was just a
24 transaction for the business, not thinking that I
25 was becoming a president of J.H. Diva.
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1 CHE
2 company.
3 **Q. Right. And I understand that.**
4 **My question is: When did you**
5 **create that corporation?**
6 A. Oh, well, I start working on this
7 business from April 1st, so -- but I create
8 this -- that name afterwards. I think it was in
9 May. It was in May.
10 **Q. So who were the incorporators in**
11 **May of Diva Y.A.?**
12 A. I did.
13 **Q. Alone?**
14 A. No. I went on that day -- I went
15 there on that day by myself. I did myself and I
16 create that name.
17 **Q. And what is the principal place of**
18 **business of Diva Y.A.?**
19 A. I don't know the clear address now.
20 But if you are in Flushing, there's a public
21 parking lot. There is a place for accountant
22 across the parking lot. I went there to make it.
23 And so I went there to make this myself.
24 **Q. And what is the address of the**
25 **corporation?**
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CHE

A. It's been always the same, 240.
It's always the same address I had.

Q. And what is the official position that you hold within that corporation?

A. I didn't hear that last part of your question.

MR. YIM: Just repeat the question.

(The requested portion of the record was read.)

A. My name, or what is it? You mean the name for the corporation?

Q. No. I mean your position, your title.

A. I'm the president for that Y.A.
I'm the president.

Q. And are there any other -- are there any -- strike that.

Is there a board of directors?

A. Oh, I have nothing.

Q. So there is not a board of directors. Is that right?

MS. GHIM: Objection. Asked and answered.

A. No.

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CHE

Q. Are there any other officers besides you?

MS. GHIM: Objection. Asked and answered.

A. No one else.

Q. And are there shareholders?

A. No.

Q. So as president of the corporation, do you receive its bank statements and any other mail that it receives?

A. Since I didn't amend the original business title, some of the bank statements indicated J.H. Diva and some others under my Diva H.A.

MR. YIM: Y.A.?

THE INTERPRETER: I'm sorry. Not

H.A.; Y.A.

Q. Do you keep the mail received by Diva Y.A.?

A. Yes. If there is some mail, I would keep.

Q. And where are they kept?

A. I keep them at a business -- normally at the business.

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CHE

Q. And when you receive mail for J.H. Diva at that address, do you keep that there also?

A. If it's something from bank, I would open.

Q. And would you keep mail that you received addressed to J.H. Diva?

A. Yes. I just keep them in a pile in the business premise if I receive anything.

I wonder why that is so serious thing. Also, I wonder why you asking about if something I receive under J.H. Diva and if I keep. I don't understand why you're questioning about that.

Q. I don't understand why you signed a document that gave the salon away to a corporation called J.H. Diva.

MS. GHIM: Objection.

Argumentative.

MR. YIM: Objection.

Argumentative.

A. You said you don't under -- you didn't understand why. When that happened, I just simply thought that just keeping the ownership of

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CHE

the business, nothing else. I didn't take that seriously like this. So I never pay attention to that kind of thing.

Q. So when one of the lawyers at the closing asked you to sign that document, you didn't realize that it was assigning the contract to J.H. Diva. Is that right?

MS. GHIM: Objection. Asked and answered.

A. That's right. I didn't understand that. Too much for me.

Q. Do you think -- strike.

Did Susan Lee ask those lawyers to draft that document?

MS. GHIM: Objection. Hearsay.

A. That kind of question should be given to Susan Lee, not me. How could I know?

Q. Did you participate in any negotiation about the contract?

MR. YIM: Objection. Asked and answered.

A. About the money, the negotiating about the money?

Q. Any of the terms.

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CHE

MS. GHIM: Objection. Asked and answered.

A. What I did is just I took some paper where the landlord signed and show them and ask to process the transferring the ownership of the business. So that's why I went there.

And they told me I'm supposed to sign here to get the ownership of the business. That's why I signed that. I signed that.

So is there any problem that I signed it there?

Q. Do you understand now that because of that document, that on March 19th, the salon was not transferred to you; it was transferred to J.H. Diva?

MS. GHIM: Objection. Foundation.

MR. YIM: Objection.

Argumentative.

A. Because I signed here, that's what happened?

Q. That's what that document states.

MR. YIM: Objection. Foundation.

A. I don't know. I don't know. So what you meant was that I became a president

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CHE

because I signed on here?

MS. KORGAONKAR: Can I see the document. If I read parts of it, will you be able to translate?

Q. I'm going to read you parts of the document.

A. Okay.

Q. Item 2 states:

"Contract is assigned from purchaser Ying Ai Che to J.H. Diva Nail and Spa, Inc."

And right here it says:

"Purchaser J.H. Diva Nail and Spa, Inc., Ying Ai Che, president."

A. So as soon as I signed here, I became a president of J.H. Diva? That's what you meant?

Q. Why does this contract list you -- strike.

A. Because I made this signature by mistake one time, so something is wrong.

MR. YIM: Motion to strike testimony. It's speculation based on attorney's representations during the TSG Reporting - Worldwide (877) 702-9580

CHE

deposition.

MR. HAN: No speaking objections, please. Objection to that.

MR. YIM: I'm sorry. Are you deposing?

Q. So on --

MR. HAN: No speaking objections.

MR. YIM: So are you going on the record making a comment?

MR. HAN: I'm making a comment on the record that there are no speaking objections, please.

MR. YIM: So there's two attorneys on the plaintiff's side making objections on the record?

MR. HAN: Please note for the record that defense counsel is making objections duplicative of witness' counsel's objections in every single instance.

MS. GHIM: That's an inaccurate characterization. I did not object to that. Parties have a right to object. He did not duplicate my objection.

MS. KORGAONKAR: We just trust your TSG Reporting - Worldwide (877) 702-9580

CHE

wise counsel, Ms. Ghim.

MS. GHIM: I'm sorry. What?

MS. KORGAONKAR: I said we just trust your counsel. That's all.

MS. GHIM: I'll take that as sarcasm, counsel.

MS. KORGAONKAR: Not at all.

MS. GHIM: I don't understand what that comment was about.

MS. KORGAONKAR: It was a humorous comment. Apparently I'm not funny.

MS. GHIM: Yeah. Humorous on your part at my expense.

MS. KORGAONKAR: Not at all, Ms. Ghim. I'm sorry for the offense.

Q. This contract -- strike.

MS. KORGAONKAR: I'd like to enter as Exhibit Che 2 the Assignment and Assumption of Lease dated March 10th.

(Che Exhibit 2 marked for identification.)

MR. YIM: We repeat the request for copies of the marked exhibits.

A. What is this?

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Page 78

CHE

Q. Do you recognize that document?

A. No, I cannot recognize this at all.

Q. Can you turn to the signature page of that.

A. Okay. This is my sign, too.

Q. Do you remember signing this?

A. Yes, I do recall that I signed it.

Q. And did you know what you were signing?

A. Well, I have to know what this is about before I answer.

Q. Well, that's my question to you.**Did you know what you were signing before you signed it?**

A. Normally I ask anyone to explain before I sign. Isn't this the document from landlord or concerning landlord?

Q. That's right. Its title is "Assignment and Assumption of Lease."

MR. YIM: Objection.

Argumentative. Speculative.

A. So it's assigning to me?

Q. Well, can you -- can you read from the signature page the assignee?

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Page 79

CHE

A. I signed because -- maybe because it was assigned to me. The business premise was assigned to me.

Q. Well, can you read on the -- on the document itself who it's been assigned to?

A. No, I can't.

MS. KORGAONKAR: Okay. Let the record reflect that the assignee is named as J.H. Diva Nail and Spa. And that under Ms. Che's signature it says Ying Ai Che, president.

A. Oh, I see. That means the president.

Q. So did you sign both these documents?

MS. GHIM: Objection. Asked and answered.

A. Yes. Yes.

Q. And do they both name you as the president of Diva Nail and Spa?

MR. YIM: Objection.

Misrepresentations.

A. Whether it's indicating me as the president or not, what -- the reason that I signed

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Page 80

CHE

here was to get the ownership of the business.

MS. KORGAONKAR: Can you read the question.

A. Well, isn't that true that when I need to buy premise or business, I should sign to complete the transaction?

MS. KORGAONKAR: Would you read back the question.

(The requested portion of the record was read.)

A. However, let me tell you again, you said that this document indicated me as the president of Diva. When I signed here, both documents, I understand as just the new owner of the nail salon, not for J.H. Diva Nail.

Q. Who -- continue.

A. Shouldn't need the process that I should take over the existing company if it says J.H. Diva and then change the company's name whatever?

MR. YIM: Is that a question mark?

THE INTERPRETER: She's kind of -- what do you call that -- just like

emphasizing. Isn't that true that the process

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Page 81

CHE

shouldn't be done this way. That's the meaning.

MR. YIM: Okay. She's not asking a question.

THE INTERPRETER: No.

MR. YIM: She's just saying it that way.

THE INTERPRETER: Just express it that way.

MS. KORGAONKAR: Could you repeat my question, please.

(The requested portion of the record was read.)

A. Yes, that's right.

Q. Do those documents indicate you as the president of J.H. Diva?

MR. YIM: Objection. Speculative.

A. When I hear the explanation and when I see the document, it was indicated that I was working as the president.

Q. Okay.

A. However, I never played the role as the president.

Q. Who drafted those documents?

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1 **CHE**
2 A. It was not prepared by me.
3 **Q. Was it prepared by a lawyer?**
4 A. Probably, yeah. I think so.
5 **Q. Was it prepared by a lawyer**
6 **retained by you?**
7 A. Yes, I think so.
8 **Q. And who is that lawyer?**
9 A. That lawyer was Jong Ho Kim.
10 THE INTERPRETER: J-O-N-G, H-O,
11 K-I-M.
12 **Q. Did you ever indicate to the**
13 **drafting attorney that you were the president of**
14 **J.H. Diva?**
15 A. You mean I did?
16 **Q. Is that a question?**
17 **I'm asking you. I don't know.**
18 **I'm asking you: Did you indicate**
19 **to him that you were the president of J.H. Diva?**
20 A. If I said so, I should be aware
21 that I was the president of J.H. Diva.
22 **Q. So did you say so?**
23 A. No, I did not. I didn't even know,
24 so I couldn't say that.
25 **Q. Did you ever tell Susan Lee that**
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1 **CHE**
2 THE INTERPRETER: Should we -- I
3 start or -- he shouldn't start because he
4 start talking to me, Mr. Yim.
5 MR. HAN: Oh, well, yeah. Why
6 don't you just tell us what happened.
7 THE INTERPRETER: During the break
8 Mr. Yim approached me and asked if there are
9 any other -- there should be some dual meaning
10 on the language that was spoken by the
11 witness, Ms. Che, which was D-O-N-G-S-A-E-N-G
12 in Korean. It's not just other meaning
13 than -- other than younger sibling. So I
14 explained to him.
15 And the language -- what I heard
16 from the witness is exactly what I interpret.
17 I cannot interpret the meaning inside such as
18 it could be interpret as just very close
19 younger people. We call -- we always -- the
20 Korean people used to call each other, if they
21 are close, like a sister or a brother. But I
22 have no idea. I don't think I'm required to
23 interpret the meaning other than what I just
24 hear.
25 And also I asked the counsel where
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1 **CHE**
2 **you were the president of a corporation called**
3 **J.H. Diva?**
4 A. From Susan?
5 MS. KORGAONKAR: Could you read
6 back the question.
7 A. Why is this so complicated? Am I
8 guilty for something?
9 (The requested portion of the
10 record was read.)
11 A. No, I never said that.
12 MS. KORGAONKAR: Let's take a
13 break.
14 (Recess taken.)
15 MR. HAN: Before we begin, this is
16 John Han, counsel for plaintiffs, speaking.
17 I'd like to note for the record that defense
18 counsel Michael Yim initiated consultation
19 with the translator in the absence of other
20 counsel, and the translator voiced objection
21 to that, Ms. DeRosa.
22 And if I could, I'd like to ask
23 Ms. DeRosa what Mr. Yim said to her and what
24 she said in response for the record during the
25 previous break.
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1 **CHE**
2 he was born. He was born in this country, not
3 in Korea.
4 MR. HAN: One more note for the
5 record. Please note that the court reporter
6 was present during this discussion and stated,
7 "I am not comfortable being present in a -- in
8 a conversation between one counselor and the
9 translator without the presence of other
10 counsel."
11 MR. YIM: Please also note that I
12 wasn't asking her to change her translation.
13 I was pointing out the basis of my objection.
14 THE INTERPRETER: So the
15 interpreter asks the counsel, Mr. Yim, I
16 believe, to make -- just make the -- indicate
17 the ground of objection to the translation if
18 something comes later in the deposition.
19 MR. YIM: Are you asking me to
20 elaborate on the basis?
21 THE INTERPRETER: The ground.
22 Yeah. What is the --
23 MR. YIM: Say more than just say
24 translation?
25 MR. HAN: I'd be interested in
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1 CHE
2 that. Clarify the ground.
3 THE INTERPRETER: The ground.
4 Clarify the ground.
5 MR. YIM: No. I'm saying anything
6 more than translation.
7 MR. HAN: Oh, I thought you wanted
8 to speak right now.
9 MR. YIM: No, no. I'm saying,
10 should I explain which words that I object to?
11 THE INTERPRETER: That's --
12 normally we do during the deposition. If you
13 don't think you not agree with the
14 translation, normally we clarify on the
15 record. So what is the issue?
16 And if something come -- we have a
17 third party to understand. I don't know the
18 Korean language and skill, how much level it
19 is, but we can discuss.
20 MR. YIM: If you're okay with me
21 saying more than translation, identifying the
22 specific words where there's dual meaning.
23 THE INTERPRETER: It's up to you,
24 counsel.
25 MS. KORGAONKAR: I think we'll have
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1 CHE
2 Anyway, it was much earlier than the final price.
3 It was earlier than that.
4 **Q. And who agreed around October to**
5 **the \$135,000 figure?**
6 A. Susan and me. We discussed.
7 **Q. And did anyone else discuss that**
8 **figure with you?**
9 A. No, no one else.
10 **Q. How did you get to that number?**
11 A. We were discussing or negotiating
12 the price. At the time the business was not that
13 great anyway, so at the beginning I agreed to that
14 price.
15 But about a half year later we came
16 up with a new price. So for the second price --
17 suggested price, I came up with this because I
18 explained to her the business is not in good shape
19 and the economy is not good, so let's do this
20 price. That's what I suggest.
21 **Q. Were you -- strike.**
22 **At the time that you agreed around**
23 **October to the \$135,000 price --**
24 MR. YIM: Objection.
25 **Q. -- how did you value the salon?**
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1 CHE
2 to see how often it comes up to see whether
3 it's disrupting my deposition.
4 **Q. Okay. So we're back from the**
5 **break, as we've established. And I'd just like to**
6 **remind you, Ms. Che, that you're still under oath**
7 **to the extent that you would be as if you were**
8 **testifying in court.**
9 A. Yes.
10 **Q. So I want to turn back to**
11 **document 1, Exhibit 1.**
12 A. Yes.
13 **Q. What does this document say**
14 **regarding the purchase price?**
15 A. As far as I know, the purchase
16 amount was \$108,000.
17 **Q. The document indicates that at some**
18 **other time the purchase price was \$135,000. Is**
19 **that right?**
20 A. Yes, it is.
21 **Q. When was the \$135,000 figure agreed**
22 **upon?**
23 A. I don't know when it was. Maybe it
24 was around -- something happened later. So I
25 would say that price was indicated around October.
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1 CHE
2 MR. YIM: Objection. Foundation.
3 A. Frankly speaking, I just create
4 that approximated amount based upon what I made
5 loan to her.
6 **Q. So why was that amount slightly**
7 **more than the amount that she owed you?**
8 A. If I set the exact amount of that
9 loan with her, I thought she'd probably want to
10 negotiate down. That's why I suggested a little
11 higher originally.
12 **Q. Did you ever agree to any price**
13 **between 135 and 108?**
14 A. Well, when we sell and buy that
15 business we were just using those two amounts. I
16 think at the time of the closing, as far as I
17 remember, he paid something for the rental to
18 another party to complete -- in order to complete
19 the closing.
20 **Q. Who paid something for the rental?**
21 A. Susan.
22 **Q. And what was it that she paid?**
23 A. For rental.
24 **Q. To whom?**
25 A. I believe that was to the landlord.
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CHE

Q. And do you recall just -- even approximately how much that amount was?

A. Well, I think it's over \$10,000.

Q. How much over? A lot over or a little over?

A. In the middle, higher than 10,000.

Q. And was it the agreement between you and her that that amount would go toward the discharge of the debt also or was that her obligation as the seller?

MS. GHIM: Objection. Compound question.

A. Well, I think today's questions is beyond my imagination. I thought that was very simple for the transaction. Simply just I took that business in exchange of the loan. I don't know why this is so complicated as I experience here today.

Q. Did that amount of a little bit over \$10,000 that Susan Lee paid to the landlord go towards her discharge of the debt?

A. We didn't discuss exactly what was to be paid for the existing debt for the transaction. We already had a kind of distant

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CHE

relationship and kind of a twisted relationship between us.

And I just suggest to her, "If you want to pay, go ahead." That's what I said. It wasn't exactly upon some kind of calculation.

Q. So do you personally consider that amount of about \$10,000 that she paid to the landlord at the closing to discharge an amount of debt that she owed to you?

MS. GHIM: Objection. Asked and answered.

A. I just assumed and I -- that's how I understood.

Q. When you bought the business, did you know that the salon was being protested?

A. You mean when I was purchasing that business?

Q. That's right.

A. Yes. That's why I took the business almost by force.

Q. Why would you want to receive a salon that had problems?

MR. YIM: Objection.

MS. GHIM: Objection. Leading.

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CHE

A. Because I put my money there. And also, these people working like this today to get paid. In order to get paid for my loan to her, I had to take the business. Where could I get paid otherwise?

I have lots of damage after this kind of problem with the business. The business went down, and I have to waste lots of money for the lawyer's fee. I don't know what's going on.

Q. So when you received the business, did you know that Susan Lee and the salon were being sued?

A. I didn't know it was in a lawsuit. I didn't know this much trouble legally.

Q. Do you still have a bad relationship with Susan Lee?

MS. GHIM: Objection. Asked and answered.

A. Well, it's just so-so.

Q. Did you ever ask her to manage the salon for you after you received it?

A. At the very beginning I asked her to help me a little bit since she was the former owner for that business.

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CHE

Q. And when you say "a little bit," what do you -- what do you mean by that?

A. You know that at the very beginning, as the new owner I could be -- I could feel kind of awkward to the existing customers as well as to existing workers.

Q. Did you pay her wages for the time that she worked there?

MS. GHIM: Objection. Asked and answered.

A. No, I did not pay any wages.

Q. Have you since paid her any wages?

MS. GHIM: Objection. Asked and answered.

A. That question seems to be irrelevant with the proceed of today -- proceedings of today.

Q. You can answer it nonetheless.

A. What should I answer to? Could you repeat the question.

(The requested portion of the record was read.)

A. Are you asking if I paid her?

Q. Yes.

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CHE

A. No. Why do I have to pay her? I did not.

Q. When she helped you out at the salon at the very beginning, did she do that as a favor to you?

MS. GHIM: Objection. Redundant. Badgering.

A. Yes, that's how I understood. (Recess taken.)

Q. What's the name of the corporation that currently holds the salon?

MR. YIM: Objection. Asked and answered.

A. I think you gave me that question before.

Q. You can answer.

A. It's Diva Nail and Spa Y.A., Inc. I don't know English well.

Q. When was the transfer of the salon made to Diva Nail and Spa Y.A., Inc.?

MS. GHIM: Objection. Asked and answered.

A. I think I already told you before. You should have all those reflected on the record.

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CHE

If you keep repeating the same question, it also cause me some headache and wasting our time. If you have other questions, you can ask me. If you already gave me the same question, I hope you don't repeat it.

MS. KORGAKONKAR: I'm going to ask you again, Ms. Ghim, not to coach your client through your objections.

MS. GHIM: And for the record, I did not coach my client. I simply raised an objection with the basis for that objection, which was asked and answered.

MS. KORGAKONKAR: I'm going to enter into the record Exhibit 3.

(Che Exhibit 3 marked for identification.)

MS. GHIM: Oh, and before we begin again with questioning, I would just like to note also for the record that when I state my objection and the basis for it, it's not being translated back to my client. So the basis for Ms. Korgaonkar stating that -- asking me not to coach my client is unfounded.

Q. Do you recognize this document?

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CHE

A. I don't know. What is this?

MS. GHIM: Counsel would like to see the exhibit before my client follows up with any testimony.

A. I don't know what that is.

Q. This is a document from the division of corporations regarding Diva Nail and Spa Y.A.

A. Yes. So?

Q. Who had ownership of the salon before Diva Nail and Spa Y.A. existed?

A. The ownership prior to this corporation name, Diva Nail and Spa, which was -- belonged to the owner -- previous owner.

Q. Which previous owner are you referring to?

A. The original owner for this was Susan, isn't it?

Q. Who was the owner immediately prior to Diva Nail and Spa Y.A.?

MS. GHIM: Objection. Redundant and badgering.

A. I do not understand your question. I do not understand your question.

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CHE

Q. I'll try to restate it.

A. Well, let me tell you, as I told you all here, I cleared that I was not working as the president, even though I signed on those documents. I told you clearly. I told you clearly.

Now you're questioning again using this document with this name, and so you're asking if I am the owner of this. Of course I am the owner of this. I'm the president of this. I told you with the other documents that even though I signed on those, but I was not working as the president.

Q. I think we're having a misunderstanding. I'm going to restate the question.

The question is: Who owned the salon immediately prior to Diva Nail and Spa Y.A.?

MR. YIM: Objection. Asked and answered.

MS. GHIM: Objection. Badgering.

A. As I look at this document today, all I can say is just simply that I signed at the time on that previous document to be the owner of

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CHE
that business at the time. But now, after the
business name changed, I became owner for this
Diva Nail and Spa.

Q. I don't understand your answer.

MR. YIM: Is that a question?

Q. The question is very direct. It's simply: Which person or entity owned the salon immediately prior to Diva Nail and Spa Y.A.?

MS. GHIM: Objection. Badgering.

Are you going to continue to ask the same question? Because then I think we should call the court for a protective order.

MS. KORGAONKAR: I have to get an answer. I can't understand her answer.

MS. GHIM: "I don't understand" is not a question.

A. Before I answer to your question, I'd like to give a statement.

Q. I'd like you to answer the question before your statement, please.

MS. GHIM: No. My client is not going to answer anymore of this question. It's already been asked and answered.

Don't answer the question.

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CHE

Q. Ms. Che, your attorney is directing you not to answer the question. Are you refusing the question?

MS. GHIM: Yes, for the fifth time.

MS. KORGAONKAR: I'm asking your client, the deponent.

A. I will respect my lawyer's instruction.

Q. Are you, yes or no, refusing to answer?

A. Yes.

Q. Okay. Did you incorporate any entities on April 16th of this year?

A. You said April 16th?

MS. KORGAONKAR: Can you repeat the question that I had.

(The requested portion of the record was read.)

MS. KORGAONKAR: I'm sorry. Strike that question.

Q. Did you incorporate any entities on April 16th of this year?

MS. GHIM: Objection. Ambiguous question.

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CHE

A. Why do I have to create any other incorporation? Nothing else except this. I don't know which direction you are driving me into.

Q. Did you incorporate Diva Nail and Spa Y.A. on April 16th of this year?

A. I'm not certain if it was April 16 when I create that.

Q. And for what purpose did you create Diva Nail and Spa Y.A.?

MS. GHIM: Objection. Asked and answered.

A. Well, when you have one company, it's natural to create as a corporation. Where is there any -- there shouldn't be any other purpose except that.

Q. Any purpose except for what?

A. There's no other purpose except just creating a company. Would be there any other purpose when we create this company like this?

Q. Well, I'm asking you what the purpose is. What was the purpose?

You already had the salon. What was the purpose of creating a new corporation?

A. Oh, well, now I understand your

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CHE

question.

After I owned this business, I learned there's some other problem by Susan, and I didn't want to keep having that kind of problems.

Q. What problems did you learn from Susan about?

A. Even before I learned there's some problem through Susan, these people came to the business premises to protest.

MS. KORGAONKAR: Could you read back just the previous answer. Not this recent answer; the one before.

(The requested portion of the record was read.)

Q. Please explain to me the problem that you're discussing that you learned about from Susan Lee.

MS. GHIM: Objection. Asked and answered.

A. Well, from now on I do refuse answering to your question because your question and make a record, and then little later you question again, same thing. And you check at me, and it looks like you are looking for some kind of

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1 CHE
2 conflict between those words. Since you are
3 keeping me here for hours, it makes me difficult
4 to answer properly. Just give me question what
5 you need to know about this.

6 **Q. Ms. Che, I'm asking you only**
7 **questions that I need answers to. But I'm going**
8 **to have to request that you listen to the question**
9 **and answer it very directly.**

10 MS. GHIM: Objection. I'm going to
11 make a motion for a protective order.

12 Don't answer.

13 **Q. Your attorney is directing you not**
14 **to answer the question that I asked you.**

15 A. Yes.

16 **Q. Are you refusing to answer?**

17 A. Yes.

18 MS. GHIM: Do plaintiff's counsel
19 wish to join in on this conference call to the
20 court?

21 MR. YIM: Can we have it
22 conferenced in through this line that has
23 speakers?

24 MR. HAN: Yeah, we'd like to join
25 in.

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1 CHE
2 MS. KORGAONKAR: Let's take a
3 five-minute break.
4 (Recess taken.)

5 **Q. So we're back on the record. And**
6 **Ms. Che, I'm not sure whether your counsel let you**
7 **know what just happened. We had a brief phone**
8 **call with the court, and they advised that we go**
9 **forward with your deposition.**

10 A. So that's what you heard from the
11 court?

12 **Q. That's right.**

13 MS. GHIM: But not on the same
14 question.

15 MR. HAN: That's not what they
16 said.

17 MS. KORGAONKAR: I'm going to --

18 MR. HAN: They said if you need to,
19 you can move for a protective order and
20 attorney costs after the fact.

21 A. Then I will follow and respect the
22 court's order.

23 **Q. Thank you.**

24 **So in light of that I'm going to**
25 **ask you one more time, and if you can answer as**

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1 CHE
2 **directly as you're able.**
3 **Prior to Diva Y.A., who owned the**
4 **salon?**

5 MR. YIM: Objection. Asked and
6 answered.

7 A. The owner was Susan.

8 **Q. At some point -- strike.**

9 **Who owned the salon between**
10 **March 19th and April 16th?**

11 A. From March 19th until April 16th?

12 MS. GHIM: Objection. Asked and
13 answered. Badgering.

14 A. I became the owner from the 1st of
15 April. Once again, it was the same question that
16 you gave before. I have been an owner from
17 April 1st.

18 **Q. At some point J.H. Diva transferred**
19 **the salon to Diva Y.A. When did that transfer**
20 **take place?**

21 MR. YIM: Objection.

22 MS. GHIM: Objection. Leading.

23 A. So you're asking when J.H. Diva --
24 you're asking when did J.H. Diva change to
25 Diva Y.A.?

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1 CHE

2 **Q. That's right.**

3 MS. GHIM: Objection. Assumes
4 facts not in evidence.

5 A. Maybe it was April 16th. I wasn't
6 clear what the exact date was. Since I see the
7 document, it looks like that date.

8 **Q. On March 19th were you aware that**
9 **Susan Lee was scheduled to appear for a deposition**
10 **the following day?**

11 A. I didn't know that. Right.

12 **Q. Did you know at any point prior to**
13 **April that the plaintiffs in this case were moving**
14 **for an order to restrain the sale of the salon?**

15 MS. GHIM: Objection. Asked and
16 answered.

17 THE INTERPRETER: Would you repeat
18 the question.

19 (The requested portion of the
20 record was read.)

21 A. I didn't know that. Was there any
22 order like that issued?

23 **Q. Well, the question was: Did you**
24 **know that the plaintiffs were moving, which I**
25 **think you've answered.**

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1 **CHE**
2 A. I didn't know.
3 **Q. Are you aware that there is now an**
4 **attachment motion regarding the salon in Glen Head**
5 **pending?**
6 A. Which business?
7 **Q. The salon in Glen Head.**
8 A. Glen Head? You mean my own current
9 business?
10 **Q. That -- that's right, the one at**
11 **240 Glen Head.**
12 A. What's going on to my business?
13 MS. KORGAONKAR: Can you repeat the
14 question.
15 (The requested portion of the
16 record was read.)
17 A. I didn't understand the question
18 well.
19 THE INTERPRETER: The witness asked
20 me to repeat just the interpreting. I think
21 the witness could not understand certain
22 Korean language.
23 MS. KORGAONKAR: I'm going to try
24 to put the question differently.
25 THE WITNESS: Yes, yes. Go ahead.
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1 **CHE**
2 understand English. And he was asking me if I was
3 the owner of the business. So I said that's
4 correct. And then he asked my name. So I told
5 him my name was Nancy. And then he just gave the
6 paper to me and left.
7 **Q. And when was this?**
8 A. It was one Tuesday. I don't know
9 how long ago it was. Maybe more than one month.
10 **Q. Earlier you had said that you found**
11 **out about this case through news media or**
12 **television, but then you also said you didn't know**
13 **about the lawsuit at the time of purchase.**
14 **Can you just explain the time line**
15 **to me.**
16 A. I just call her as like a younger
17 sister, but she's just close friend to me, and she
18 saw TV and relayed that to me. But I read myself
19 through a newspaper.
20 **Q. And when was that?**
21 A. It's been a while. I think it's
22 more than one year ago.
23 **Q. Where do you keep all the documents**
24 **related to the salon?**
25 MS. GHIM: Objection. Asked and
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1 **CHE**
2 **Q. Do you know that there is a motion**
3 **before the court now regarding the salon?**
4 A. I'm just saying that my current
5 business in the lawsuit.
6 **Q. It's just a yes or no.**
7 A. I didn't understand that as well.
8 **Q. I'll move on for now.**
9 **Earlier this morning you mentioned**
10 **receiving interrogatories. Who were they from?**
11 MS. GHIM: Objection. Asked and
12 answered.
13 A. Well, let me give you the question:
14 Were you ordered by the court to repeat the same
15 question?
16 **Q. No. The court made no orders.**
17 MS. KORGAONKAR: Can you repeat the
18 question so the witness can answer it.
19 (The requested portion of the
20 record was read.)
21 A. One morning when I went to work, an
22 American brought that to me.
23 **Q. Who were they from?**
24 A. I don't know where he was from, but
25 he was delivering that to me, but I didn't
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1 **CHE**
2 answered.
3 A. What kind of a document? Keep
4 where? I brought some with me.
5 **Q. We have those. Thank you.**
6 MR. HAN: Which documents are you
7 referring to?
8 MS. GHIM: The same documents
9 through the document production.
10 A. I don't know why you're giving me
11 this kind of a question.
12 MR. HAN: Are there any documents
13 in there that weren't in the document
14 production?
15 MS. GHIM: What she's referring to
16 is what I sent over.
17 MR. HAN: Okay.
18 **Q. I mean any mail or any bank**
19 **statements --**
20 MS. GHIM: Objection. Asked and
21 answered.
22 **Q. -- that the salon receives.**
23 A. So you're asking where I kept
24 those?
25 **Q. That's right.**
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Page 110

CHE

A. Most of them kept at business premise.

Q. And is it your general business practice to keep all the bank statements that the salon receives?

A. Yes, I do that always.

Q. And do you have any documents that show that Diva Y.A. owns the salon?

A. You're asking me if some -- is there any document showing that Diva is the owner of the salon?

Q. Diva Y.A.

MS. GHIM: She's referring to the corporate book.

A. I brought this today. I show you the document that I brought today. This one probably. Any other special document besides this? I thought this was the one you need. These kinds of questions are strange.

Q. This document does not -- I'm asking whether there's any documents that show that Diva Y.A., the corporation, owns the salon?

MS. GHIM: Objection. Asked and answered.

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Page 111

CHE

A. Where can I get that kind of document? I don't know where to get.

Q. Well, do you have any documents that show the salon being transferred to Diva Y.A.?

A. There's some paper. I have recently received some documents from bank. Maybe that's the thing.

Q. Do you have any documents that show that someone or some entity transferred the salon to Diva Y.A.? That's the question.

MS. GHIM: Objection. Redundant.

MR. YIM: Asked and answered.

A. No, I do not.

Q. And the bank documents that you just mentioned that you will receive, do we have those documents?

A. It's kept at the business premise.

Q. Okay. So you have not produced them to us yet. Is that right?

A. Those documents I think I gave you the other day. I gave it to my lawyer. Diva Y.A. was written in the bank statement which I received and gave it to my lawyer.

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Page 112

CHE

Q. Okay.

MS. GHIM: And that document was produced to plaintiff's counsel on the 8th.

Q. Do you have any documents showing the transfer of any assets from either J.H. Diva -- strike.

Do you have any documents showing the transfer of any asset from J.H. Diva to Diva Y.A.?

MS. GHIM: Objection. Asked and answered.

MR. YIM: Objection. Foundation.

A. I do not have those. Am I required to keep the -- or make this kind of document? I didn't know about that. Once I own the business, everything inside the business premises should belong to me; isn't it?

Q. Well, when you said that you don't have those documents, does that just mean that, to your knowledge, they don't exist?

MS. GHIM: Objection. Asked and answered.

A. I do not have a document with me.

Q. Do you -- I'm trying to clarify

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Page 113

CHE

because you just now said that you don't have them with you.

Do you have them somewhere else?

A. No.

Q. Do you think that anyone else might have such a document?

A. Not at all, no. It cannot be.

Q. I want you to help me understand something. This document that we talked about before shows the salon going to J.H. Diva on March 19th, and that's where our paper trail ends. So the salon went to J.H. Diva on March 19th.

What happened after March 19th that brought the salon into the ownership of Diva Y.A.?

MS. GHIM: Objection. Asked and answered.

MR. YIM: Asked and answered, and foundation.

A. I know you keep asking the same question.

First, I'd like to talk to you -- talk before you is that I was not familiar with the laws. So I just signed, understanding that I was going to own the business. I feel frustrated.

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1 CHE
2 I start owning that business by doing this,
3 nothing else, no other process.

4 I didn't know what to do with those
5 billings or assets inside the premise. I didn't
6 know what to do with this except just doing this.

7 **Q. Did you ever sign a document like**
8 **this that shows the salon coming into the**
9 **ownership of Diva Y.A.?**

10 MS. GHIM: Objection. Asked and
11 answered. Badgering.

12 MR. YIM: Asked and answered.

13 A. You mean exactly this document?

14 **Q. I don't -- I don't understand.**

15 A. You mean exact this? You're asking
16 something else except this?

17 **Q. Not this document. Besides this**
18 **one. Yes.**

19 A. I feel so frustrated. What kind of
20 document for Diva? I don't know. What are you
21 looking for?

22 **Q. What I'm looking for is I want to**
23 **know whether there are any documents that show**
24 **that the salon got transferred to Diva Y.A.?**

25 MS. GHIM: Objection.

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1 CHE
2 A. I went to an accountant's office to
3 apply for changing the business title. I told you
4 earlier that I went to the office across the
5 public parking lot. I told you already. And you
6 asked me same thing again.

7 **Q. And what's the name of this**
8 **accountant?**

9 A. The accountant's name -- give me a
10 second. His Korean name is Jaekwang.

11 THE INTERPRETER: J-A-E-K-W-A-N-G,
12 B-A-N.

13 MS. KORGAONKAR: B as in boy?

14 THE INTERPRETER: Yes.

15 **Q. And did you sign any documents when**
16 **you went to Mr. Ban's office?**

17 A. So what I did is just wanted to
18 change the business until I got this business, and
19 that's what I applied.

20 **Q. And to do that, did you sign any**
21 **documents?**

22 MS. GHIM: Objection. Asked and
23 answered.

24 A. I brought this with me that showed
25 that my company was created to this kind of a
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1 CHE
2 paper. I asked him to change J.H. Diva into my
3 own.

4 **Q. I understand that.**

5 **And I'm going to ask you this. I'm**
6 **going to ask again: Did you sign any documents?**
7 **Not what you took, but what you might have signed.**

8 A. Yes, I did.

9 **Q. Okay. And did you get any copies**
10 **of the things that you signed?**

11 A. I do not recall.

12 MS. KORGAONKAR: And please note
13 for the record that the deponent indicated
14 physically the document that we're about to
15 enter as Exhibit 4.

16 (Che Exhibit 4 marked for
17 identification.)

18 **Q. Was it in April that you went to**
19 **see Mr. Ban?**

20 A. I think it was in May. I think I
21 said that before.

22 **Q. And did anyone go with you?**

23 A. No. I just did myself.

24 **Q. Now, I think we noted in your -- in**
25 **your corporate records which we copied that**

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1 CHE
2 **they're all blank. Why is that?**

3 A. I don't know. I don't know what
4 you mean with this.

5 **Q. This is a photocopy of your**
6 **original that you're now holding.**

7 MR. YIM: I object. There's
8 documents that may or may not be used there
9 and have not yet been authenticated.

10 (Che Exhibit 5 marked for
11 identification.)

12 MR. YIM: Just as a question, is
13 that -- is that binder just the documents that
14 you just photocopied?

15 MR. HAN: Yes.

16 MR. YIM: Okay. I withdraw my
17 objection.

18 **Q. For example, I see that this**
19 **document is completely blank.**

20 MR. YIM: Objection. The document
21 speaks for itself.

22 **Q. Why are the documents in your**
23 **corporate records blank?**

24 A. I just applied and I was given this
25 way. That's how I just kept. I didn't know what
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Page 118

1 CHE
2 was going on inside.
3 **Q. And who gave you the documents?**
4 A. This file was given to me after I
5 apply for -- I don't know if I picked up this
6 myself. I don't know if I picked this myself.
7 I'm not sure. I do not recall clearly about this.
8 **Q. Do you recall when it came into**
9 **your possession?**
10 A. When was it? Anyway, I want the
11 lawyer or maybe an accountant to make this. After
12 I applied for this, I think I got this maybe in
13 three weeks. I'm not certain.
14 **Q. Three weeks from when?**
15 A. Okay. Let me say I went to a
16 lawyer first. When I went there we found that all
17 the process was completed. After that I applied
18 for this kit.
19 **Q. And to whom did you apply for this**
20 **kit?**
21 A. For now I was with the lawyer and
22 also accountant at the time, so I get them kind of
23 confused.
24 **Q. Which lawyer was it?**
25 A. Jong Ho Kim. I don't know if I
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Page 120

1 CHE
2 **Q. And you said that Mr. Ban or**
3 **Mr. Kim helped you apply to get this kit.**
4 **But you never answered the**
5 **question: Where did you apply to get this kit?**
6 A. That's what I'm confused now. I am
7 confused where I applied. So as I said, if it
8 comes to my mind I will let you know.
9 **Q. So you -- did you fill out an**
10 **application on paper to get this kit?**
11 MS. GHIM: Objection. Asked and
12 answered.
13 A. I feel headache.
14 **Q. You had said before that you had**
15 **wanted to tell your story. And at that point I**
16 **had said, Let's finish answering the questions.**
17 **So I'm going to give you an opportunity now which**
18 **you asked for before.**
19 MS. GHIM: Objection. Is there a
20 question?
21 **Q. Do you want to tell your story?**
22 A. What kind of story?
23 MS. GHIM: Objection. Overbroad.
24 **Q. There may have been a**
25 **mistranslation or a misunderstanding. I had**
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Page 119

1 CHE
2 went to Jong Ho Kim's office or another person for
3 this. I am confused now. I cannot tell you.
4 **Q. Is there someone else who you have**
5 **in mind who it could have been, if not Mr. Kim?**
6 A. You mean about this?
7 **Q. Yes, exactly.**
8 A. Then it could be Jaekwang Ban. I'm
9 just confused now, so I cannot tell you.
10 **Q. Do you -- Jaekwang Ban is the same**
11 **accountant that you mentioned before. Is that**
12 **correct?**
13 A. Yes. I'm not sure if that was him
14 or another party, Jong Ho Kim. If I have the
15 answer later I'll let you know.
16 **Q. Thank you.**
17 **Have you ever met or heard of --**
18 **strike.**
19 **Do you know an attorney named**
20 **Michael Choi?**
21 A. It's a lawyer?
22 **Q. Yes, that's right.**
23 A. As for a lawyer, I know only
24 Jong Ho Kim. I'm not sure. I don't know about
25 him.
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Page 121

1 CHE
2 **remembered that earlier you said to me something**
3 **to the effect of --**
4 A. You mean the thing that I tried to
5 say and then stopped in the middle?
6 **Q. I think that was it. I just am**
7 **wanting -- I'm just asking if you want that**
8 **opportunity now?**
9 MR. YIM: Objection. Overbroad.
10 MS. KORGAONKAR: I'm going to --
11 I'm going to restate this.
12 **Q. Susan Lee has told us her side of**
13 **the events. I'm asking you now whether you want**
14 **to state your version of the events that we've**
15 **been discussing today. You don't have to.**
16 MS. GHIM: Objection.
17 MR. YIM: Vague and ambiguous.
18 **Q. You're under no obligation to. I**
19 **just bring it up because you had brought up**
20 **something to that effect earlier, and I had asked**
21 **that you reserve your statement until later.**
22 A. Okay. I'll talk about that later.
23 **Q. Okay. Well, now is the time.**
24 **We're finishing up. You're under no obligation.**
25 **It's only because you had brought it up before.**
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CHE

It's your choice.

A. What I'm trying to say was I just go on through this incident. I -- there were some problems since I didn't handle it straightfully or properly.

So what came to my mind after I arrived here, that I should make the things in detail clearly if I have to do these kinds of things later on, if it's necessary I should close something and open something new. That's what I learned today.

At the time that I just think a very simple way. Because I could not collect the money, I thought it best for me to get to ownership of that business.

So as today, I feel like -- I'm sorry that I feel like I gave you burden with this incident, even though you are all busy.

MS. KORGAONKAR: There's no need to apologize. And thank you for coming to our office.

MR. YIM: I have just a few questions.

EXAMINATION BY

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CHE

MR. YIM:

Q. Ms. Che, I'm the attorney for Susan Lee. I will be asking a few questions. Please be reminded you're still under oath.

You previously stated you had a strained relationship with Susan Lee after this due to this sale -- strike that.

You previously testified that you had a strained relationship with Susan Lee due to -- strike that. Let me rephrase.

Is it accurate that your previous -- in your previous -- you previously testified that you had a strained relationship with Susan Lee due to debts?

A. Yes.

Q. Okay. Is it accurate to say that you didn't trust her to pay you back on the debts?

MR. HAN: Objection.

MR. YIM: Are you taking over now?

Is she done?

MR. HAN: We can all --

MR. YIM: You can't have more than one attorney making objections for one party.

MR. HAN: Sure you can.

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CHE

MR. YIM: Okay. If that's your position.

Repeat the question, please.
(The requested portion of the record was read.)

A. As I testified earlier, I didn't mean that I didn't trust her in terms of returning my money. But because she had a business, I felt that I could take over her business instead of getting paid back.

Q. Did you believe that she had another way to pay you back besides through the business?

MS. KORGAONKAR: Objection.

MR. HAN: Objection. Speculation.

A. She makes good business, so I thought she could return my money. But she won't -- she did not -- she didn't -- she did not pay me back.

Q. Okay. You previously testified that you gave her four separate cash loans. Is that accurate?

MS. GHIM: Objection. Leading question.

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CHE

A. Yes, altogether four times.

Q. Could you explain why did you make four -- why did you -- strike that. I'll just move on real quick and we'll call it a day.

Are you -- are you related to Susan Lee or John Lee -- strike that.

Are you related to Susan Lee?

A. No, I'm not.

Q. Is it accurate that you previously testified that you called her -- she would call you her -- she would call you older sister?

MR. HAN: Objection. Leading.

A. Yes. She called me "big sister." It's -- all Korean people always call each other "big sister" or something like that.

Q. Does that -- does calling someone "big sister" imply a family relationship?

MR. HAN: Objection. Foundation.

A. No, it's not a family relationship.

MR. YIM: Okay. That's it. Thank you.

MS. GHIM: I just have a few questions before we close really quick.

EXAMINATION BY

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1 CHE
 2 MS. GHIM:
 3 **Q. Ms. Che, you know you're still**
 4 **under oath. I'm just going to ask you a few**
 5 **questions.**
 6 **Ms. Che, the documents that were**
 7 **shown to you today, are you able to read those**
 8 **documents beyond your own name or the store name?**
 9 A. No. I didn't understand. I
 10 couldn't read at all.
 11 MR. HAN: Objection.
 12 **Q. And it was your understanding that**
 13 **after -- strike that.**
 14 **It's your understanding that when**
 15 **you say "change the name of the business" means**
 16 **your purchase of the store?**
 17 A. Yes.
 18 **Q. Okay. And after you purchased the**
 19 **store, you believed it was yours?**
 20 MS. KORGAKONKAR: Objection. That's
 21 not a question.
 22 A. That's what I thought.
 23 **Q. And did you incorporate because you**
 24 **wanted corporate protection and not just ownership**
 25 **as an individual?**
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1 CHE
 2 A. I became knowing about that since
 3 this matter became such a big thing.
 4 **Q. Did you ever work for Susan Lee?**
 5 A. Not at all. Never.
 6 **Q. Did you ever -- did you ever meet**
 7 **any of her employees that worked at this Diva**
 8 **location at 240 Glen Head Road -- I'm sorry.**
 9 **Strike that.**
 10 **Were you aware of the -- of Susan**
 11 **Lee's other nail salon in Old Bethpage?**
 12 MR. HAN: Objection.
 13 A. I don't know. I don't know.
 14 MS. GHIM: Okay. Thank you.
 15 (Time Ended: 5:12 p.m.)
 16
 17 _____
 18 YING AI CHE
 19
 20 Subscribed and sworn to
 21 before me this day
 22 of July, 2009
 23
 24 _____
 25
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1 CHE
 2 MR. HAN: Objection.
 3 A. That's what I thought.
 4 **Q. And one last question: The**
 5 **attorneys have been referencing a lawsuit against**
 6 **the nail salon at 240 Glen Head Road, which is**
 7 **your salon.**
 8 MR. HAN: Objection. Irrelevance.
 9 A. Yes.
 10 **Q. Are you aware of who the plaintiffs**
 11 **are in the case?**
 12 A. I don't know them.
 13 **Q. You stated that you were aware that**
 14 **Susan Lee was having problems with her -- had**
 15 **problems with her employees?**
 16 MR. HAN: Objection.
 17 Misrepresentation of the record.
 18 MS. GHIM: Let me rephrase that.
 19 **Q. You said you were aware of**
 20 **demonstrators outside the store.**
 21 MR. HAN: Was there a question?
 22 A. Every Tuesday they were in front of
 23 my business. That's why --
 24 **Q. Do you know who they are or why**
 25 **they're demonstrating?**
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1 INDEX
 2 WITNESS EXAM BY PAGE
 3 Y. Ai Che Ms. Korgaonkar 5
 4 Mr. Yim 122
 5 Ms. Ghim 125
 6
 7
 8
 9 EXHIBITS
 10 EXHIBIT DESCRIPTION PAGE
 11 Exhibit 1 Amendment of Contract of Sale 60
 12 Exhibit 2 Assignment and Assumption of 77
 Lease
 13 Exhibit 3 New York State incorporation 95
 14 filing
 15 Exhibit 4 Certificate of Incorporation 116
 16 Exhibit 5 Binder of corporate records 117
 17
 18
 19
 20
 21
 22
 23
 24
 25
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1 LITIGATION SUPPORT INDEX
 2 DIRECTION TO WITNESS NOT TO ANSWER
 3 Page Line Page Line
 4 16 6 22 4
 5 45 3 98 7
 6 101 16
 7 REQUEST FOR PRODUCTION OF DOCUMENTS
 8 Page Line Page Line
 9 (NONE)
 10 INFORMATION TO BE FURNISHED
 11 Page Line Page Line
 12 (NONE)
 13 QUESTIONS MARKED FOR A RULING
 14 Page Line Page Line
 15 (NONE)
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

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1 CERTIFICATE
 2
 3 STATE OF NEW YORK)
 4)ss:
 5 COUNTY OF NEW YORK)

6 I, JOMANNA DeROSA, a Certified
 7 Shorthand Reporter and Notary Public within
 8 and for the State of New York, do hereby
 9 certify:

10 That YING AI CHE, the witness whose
 11 deposition is hereinbefore set forth, was
 12 duly sworn by me and that such deposition is
 13 a true record of the testimony given by such
 14 witness.

15 I further certify that I am not
 16 related to any of the parties to this action
 17 by blood or marriage, and that I am in no
 18 way interested in the outcome of this
 19 matter.

20 In witness whereof, I have hereunto
 21 set my hand this 20th day of July, 2009.

22 _____
 23 JOMANNA DeROSA

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1 ***ERRATA SHEET***
 2 NAME OF CASE: Thong v. Lovely Nails, et al.
 3 DATE OF DEPOSITION: 7/15/09
 4 NAME OF WITNESS: Y. Ai Che
 5 Reason codes:
 6 1. To clarify the record.
 7 2. To conform to the facts.
 8 3. To correct transcription errors.
 9 Page _____ Line _____ Reason _____
 10 From _____ to _____
 11
 12 Page _____ Line _____ Reason _____
 13 From _____ to _____
 14
 15 Page _____ Line _____ Reason _____
 16 From _____ to _____
 17
 18 Page _____ Line _____ Reason _____
 19 From _____ to _____
 20
 21 Page _____ Line _____ Reason _____
 22 From _____ to _____
 23
 24
 25

 YING AI CHE

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A				
ability (3) 5:5 8:17 63:4 able (7) 7:7,21 49:5 62:24 75:5 104:2 126:7 absence (1) 83:19 accent (2) 39:3 41:19 accept (2) 50:17,19 account (4) 53:21 54:9,14,24 accountant (5) 69:21 115:8 118:11 118:22 119:11 accountant's (2) 115:2,9 accurate (7) 7:7 8:8 18:8 123:12 123:17 124:23 125:10 acquaintances (1) 45:4 acquainted (2) 48:7,16 action (1) 131:15 actual (1) 55:16 add (4) 40:2 54:13,23 59:15 added (2) 26:24 68:24 address (9) 16:7,8,11,25 17:4 69:19,24 70:3 72:3 addressed (1) 72:8 administered (1) 31:23 advised (1) 103:8 ago (4) 13:2,6 108:9,22 agree (4) 28:5 58:15 86:13 89:12 agreed (13) 28:13 37:11 56:6 57:17,18,20 58:7,9 61:21 87:21 88:4,13 88:22 agreeing (1) 41:5 agreement (5) 27:21 28:18,23,25	90:8 ahead (3) 16:15 91:5 106:25 Ai (12) 1:16 2:8 3:19 15:9 75:11,15 79:11 128:18 129:3 131:9 132:4,23 al (1) 132:2 allow (2) 6:8 55:20 allowed (1) 6:6 altogether (2) 30:4 125:2 ambiguous (5) 24:8 27:5 56:14 99:24 121:17 AMEE (1) 4:6 amend (1) 71:12 Amendment (1) 129:11 American (1) 107:22 amount (14) 30:24 31:25 33:9 42:25 87:16 89:4,6 89:7,8 90:3,9,20 91:8,9 amounts (2) 43:3 89:15 answer (52) 6:9,12,15 7:22,24 8:2 11:16,17 12:4 14:7 16:18 17:2,3,17,23 18:3,5,15,16 20:17 22:21 24:3 44:4 45:7,11,13 50:17 55:3 78:12 93:19,20 94:17 98:5,15,15,18 98:20,23,25 99:3,11 101:12,13 102:4,9 102:12,14,16 103:25 107:18 119:15 130:2 answered (52) 8:5,9 13:13 15:22 20:14 24:20 28:20 29:15 32:12 35:19 36:2 48:5 49:19 52:20 63:7,23 64:9 70:24 71:5 73:10,22 74:3 79:18 91:12 92:19 93:11,15 94:14,23 95:13 97:21 98:24 100:12	101:20 104:6,13 105:16,25 107:12 109:2,21 110:25 111:14 112:12,23 113:17,18 114:11 114:12 115:23 120:4,12 answering (2) 101:22 120:16 answers (1) 102:7 anymore (2) 52:4 98:23 anyway (7) 27:11 28:15 35:7 53:4 88:2,13 118:10 apart (1) 51:22 apologize (2) 44:19 122:21 Apparently (1) 77:12 appear (1) 105:9 application (1) 120:10 applied (5) 115:19 117:24 118:12 118:17 120:7 apply (5) 115:3 118:5,19 120:3 120:5 Appreciate (1) 66:17 approach (1) 49:13 approached (3) 49:24 50:22 84:8 approximate (2) 43:3,4 approximated (1) 89:4 approximately (4) 26:14 27:13 30:18 90:3 April (31) 13:22 19:15 20:4,8,10 20:23 21:4,14,16 24:7,12 25:8 26:12 26:13 52:16 65:4,10 65:14 69:7 99:14,15 99:23 100:6,7 104:10,11,15,17 105:5,13 116:18 Argument (1) 68:17 Argumentative (4) 72:20,22 74:19 78:22 arrived (2)	21:21 122:8 asked (72) 9:25 13:13 15:22 20:13 24:19 28:19 29:14 32:3,11 35:18 35:25 38:8,9 48:4 49:18 50:3,23 52:19 53:21 54:9,13 55:4 55:13,24 62:14 63:6 63:22 64:8 70:23 71:4 73:6,9,21 74:2 79:17 84:8,25 91:11 92:18,23 93:10,14 94:13,22 95:13 97:20 98:24 100:11 101:19 102:14 104:5,12 105:15 106:19 107:11 108:4,25 109:20 110:24 111:14 112:11,22 113:16 113:18 114:10,12 115:6,22 116:2 120:11,18 121:20 asking (32) 36:23,25 37:3,7 40:4 40:5 49:16 58:11 67:8 72:12 81:4 82:17,18 85:12,19 93:24 95:23 97:9 99:6 100:21 102:6 104:23,24 108:2 109:23 110:10,22 113:20 114:15 121:7,13 123:4 asks (2) 41:24 85:15 asset (1) 112:9 assets (2) 112:6 114:5 assign (1) 61:15 assigned (5) 67:13 75:10 79:3,4,6 assignee (2) 78:25 79:9 assigning (4) 62:8 67:17 73:7 78:23 Assignment (3) 77:19 78:20 129:12 assume (2) 6:22 40:17 assumed (1) 91:13 assumes (8) 12:2 13:25 15:5 19:19 27:25 28:7 37:15 105:3	Assumption (3) 77:19 78:20 129:12 ATM (1) 44:9 attachment (1) 106:4 attention (1) 73:3 attorney (11) 6:5 8:25 18:14 57:22 82:13 99:2 102:13 103:20 119:19 123:3,24 attorneys (6) 3:4,12,19 5:15 76:14 127:5 attorney's (2) 26:15 75:25 August (6) 27:18 53:25 54:3,12 54:18 55:11 authenticated (1) 117:9 authority (1) 47:15 Avenue (3) 2:10 3:6 14:13 aware (10) 10:10 36:5,10 82:20 105:8 106:3 127:10 127:13,19 128:10 awkward (1) 93:6 a.m (1) 2:5 a/k/a (2) 1:11,11
				B
				B (1) 115:13 back (35) 8:12 20:19 33:16 34:2 35:6,9 36:23 37:2,8 49:6,9,13,16 50:8 51:5,10 52:24 53:17 53:20 56:8,9,21 59:6 66:9 80:9 83:6 87:4,10 95:22 101:12 103:5 123:18 124:11,13 124:20 background (5) 17:7,9 23:6,15,23 backing (1) 55:19 bad (1) 92:16

badgering (6) 94:8 96:23 97:22 98:10 104:13 114:11	blood (1) 131:16	69:18 71:13,24,25 72:10 73:2 74:7,9 79:3 80:2,6 88:12 88:18 89:15 90:17 91:15,18,21 92:5,8 92:8,11,25 98:2,3 101:3,10 106:6,9,12 107:5 108:3 110:2,4 111:19 112:16,17 113:25 114:2 115:3 115:18,18 122:16 124:9,10,14,17 126:15 127:23	7:10 39:3,15 100:7 106:21 118:13	122:1 123:1,3 124:1 125:1 126:1,3,6 127:1 128:1,18 129:3 131:9 132:4 132:23
balance (1) 35:14	board (2) 70:19,21	book (1) 110:15	Certificate (2) 129:15 131:1	check (2) 42:22 101:24
Ban (4) 116:19 119:8,10 120:2	born (2) 85:2,2	borrowed (4) 32:25 33:15 34:12 51:9	Certified (2) 2:12 131:5	Chen (2) 1:4 15:20
bank (15) 44:9,12,17 53:22 54:7 54:8,24 71:10,13 72:5 109:18 110:5 111:8,16,24	bother (1) 17:21	buy (4) 28:13 62:15 80:6 89:14	certify (2) 131:8,14	Che's (1) 79:11
Ban's (1) 115:16	bought (2) 28:24 91:15	busy (1) 122:19	change (13) 29:3,11 58:20,20 64:13,15,19 80:20 85:12 104:24 115:18 116:2 126:15	children (1) 17:4
based (2) 75:24 89:4	boy (1) 115:13	buy (4) 28:13 62:15 80:6 89:14	changed (4) 58:14 64:17,18 98:3	China (1) 39:5
basis (5) 85:13,20 95:12,21,22	break (7) 38:20,25 83:13,25 84:7 87:5 103:3	buying (1) 62:12	changing (1) 115:3	Chinese (3) 39:6 44:10,16
becoming (2) 67:8,25	brief (2) 23:20 103:7	B-A-N (1) 115:12	characterization (2) 68:16 76:22	Choi (1) 119:20
beginning (6) 29:18 47:9 88:13 92:23 93:5 94:5	bring (1) 121:19	<hr/> C <hr/>	Che (163) 1:16 2:8 3:19 5:1,13 6:1 7:1,12 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1,9,13,25 16:1 17:1 18:1,14 19:1 20:1 21:1,9,10 22:1,19 23:1,4 24:1 24:2 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 39:22 40:1 41:1,22 42:1,7 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 60:22 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1,11,15 76:1 77:1,19,21 78:1 79:1,11 80:1 81:1 82:1 83:1 84:1,11 85:1 86:1 87:1,6 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 95:16 96:1 97:1 98:1 99:1,2 100:1 101:1 102:1,6 103:1 103:6 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1,16 117:1,10 118:1 119:1 120:1 121:1	choice (3) 55:25 56:7 122:2
behalf (1) 39:10	broad (1) 45:6	C (3) 3:2 4:2 5:7		clarification (2) 6:20,21
believe (9) 29:9,23 30:21 33:4 39:5 49:8 85:16 89:25 124:12	broke (1) 42:10	calculation (1) 91:6		clarify (19) 7:9 22:8 39:9,15,18 40:4,5,13,18 47:8 54:11,17 59:17 60:13 86:2,4,14 112:25 132:6
believed (1) 126:19	brother (1) 84:21	call (16) 17:18,21 18:10 22:15 48:14 80:24 84:19 84:20 98:12 102:19 103:8 108:16 125:5 125:11,12,15		clarifying (2) 40:11,20
belong (1) 112:18	brought (8) 107:22 109:4 110:16 110:17 113:15 115:24 121:19,25	called (10) 15:24 62:9 64:25 66:20 67:18 68:22 72:18 83:2 125:11 125:14		clear (9) 11:17 14:17 40:9,11 41:3 43:11 45:20 69:19 105:6
belonged (1) 96:15	Building (1) 3:5	calls (1) 58:17		cleared (1) 97:4
benefit (1) 39:23	burden (1) 122:18	CARMELA (1) 4:7		clearly (5) 66:14 97:6,7 118:7 122:9
best (3) 5:5 39:14 122:15	Burling (2) 2:9 3:3	case (7) 5:16 12:4 49:11 105:13 108:11 127:11 132:2		client (12) 16:18 17:17 22:21 41:11 45:6 95:8,11 95:22,24 96:4 98:22 99:7
Bethpage (1) 128:11	business (131) 13:20,23 27:8 28:9,13 28:24 29:17,19,23 32:2 33:10 34:7 35:8,10,12 36:11,14 36:16 37:22 38:8,10 46:8,19,24,25 47:2 47:3,5,9,13,16 48:22,22 49:6,10,10 49:21 50:2,14 51:11 51:17 52:5,7,9,25 53:5,12,18,21 54:9 54:10,14,15,24 55:2 55:8,13,21,25 57:6 57:17 58:11,21,22 59:15 60:3,8 61:22 62:4,6,13,15,23 64:12,12,14,18 67:7 67:10,24 68:23 69:7	calling (2) 48:18 125:17		close (5) 84:18,21 108:17 122:10 125:24
beyond (2) 90:15 126:8		cash (6) 42:22,23 43:24,25 44:5 124:22		closing (4) 73:6 89:16,19 91:9
big (9) 31:8,25 47:13 48:14 48:19 125:14,16,18 128:3		cause (1) 95:3		coach (5) 45:17,18 95:8,11,24
billings (1) 114:5		caused (1) 58:15		coaching (1) 45:25
binder (2) 117:13 129:16		Center (2) 4:6,7		codes (1) 132:5
bit (5) 38:18 39:24 90:20 92:24 93:2		certain (6)		collect (1) 122:14
blank (3) 117:2,19,23				

come (5) 15:15 52:14 54:4 55:15 86:16 comes (3) 85:18 87:2 120:8 comfortable (4) 39:21 49:20,21 85:7 coming (5) 5:12 35:4 36:8 114:8 122:21 comment (4) 76:10,11 77:10,12 Commentary (1) 44:2 company (6) 69:2 80:19 100:13,19 100:20 115:25 company's (1) 80:20 compensated (1) 33:12 compensating (1) 53:5 complaint (3) 12:4,5,7 complete (3) 80:7 89:18,18 completed (1) 118:17 completely (2) 23:19 117:19 complicated (2) 83:7 90:18 comply (1) 53:16 Compound (3) 29:4 55:6 90:12 concerning (1) 78:18 concluded (1) 32:22 conditions (1) 28:21 conference (1) 102:19 conferenced (1) 102:22 conflict (1) 102:2 conform (1) 132:6 confused (6) 56:17 118:23 119:3,9 120:6,7 conservative (1) 48:13 consider (1) 91:7	considered (1) 8:3 constantly (1) 16:4 consultation (1) 83:18 contacted (1) 7:16 contempt (1) 8:3 continue (4) 14:18 43:14 80:17 98:11 Continued (1) 4:2 contract (16) 28:21 31:12 32:16,16 33:9 61:16 62:9 67:13,18 68:9 73:7 73:20 75:10,19 77:17 129:11 convenient (1) 64:14 conversation (3) 5:19,24 85:8 copied (1) 116:25 copies (4) 44:25 61:7 77:24 116:9 copy (1) 44:21 Corp (3) 1:8,8 3:12 corporate (5) 110:15 116:25 117:23 126:24 129:16 corporation (21) 59:10 61:16 62:9 64:25 66:20,25 67:18 68:13,22 69:5 69:25 70:5,12 71:9 72:17 83:2 94:11 96:14 100:14,24 110:23 corporations (1) 96:8 correct (15) 34:24 36:3 37:14 41:17 52:3,3 54:12 54:18 59:20 60:15 61:4 63:16 108:4 119:12 132:7 correctly (3) 32:6 34:9 37:6 corresponding (1) 43:4 costs (1) 103:20	counsel (18) 61:2 65:18,21 76:18 77:2,5,7 83:16,18 83:20 84:25 85:10 85:15 86:24 96:3 102:18 103:6 112:4 counselor (1) 85:8 counsel's (1) 76:19 country (4) 15:14,16 17:4 85:2 COUNTY (1) 131:3 course (4) 6:2 51:22,23 97:10 court (26) 1:2 6:13 7:3,12,15,16 9:8,11 10:3 12:8,10 16:19 17:10,17,18 17:21 18:10 85:5 87:8 98:13 102:20 103:8,11 107:3,14 107:16 court's (1) 103:22 covered (1) 21:12 Covington (2) 2:9 3:3 create (10) 68:25 69:5,7,16 89:3 100:2,8,9,14,20 created (2) 68:25 115:25 creating (2) 100:19,24 criminal (2) 16:24 17:8 CRONIN (1) 4:9 crying (2) 48:23 51:8 CSR (1) 1:24 Cui (3) 1:11 3:13 14:20 current (5) 16:8 52:5 64:12 106:8 107:4 currently (3) 7:12 18:24 94:12 customers (2) 52:23 93:6 C-U-I (1) 14:21	D (2) 3:16 5:2 Daily (2) 10:20,25 damage (1) 92:7 Dang (1) 6:2 date (4) 26:9 105:6,7 132:3 dated (1) 77:20 daughters (1) 44:15 day (12) 20:7 24:15 26:12,25 62:23 69:14,15 105:10 111:23 125:5 128:21 131:20 days (4) 12:25 13:6 26:16,16 debt (7) 34:2 35:17 37:13 90:10,22,24 91:10 debts (3) 46:20 123:15,18 decent (1) 48:13 decision (1) 7:16 Defendants (2) 1:12 3:12 defense (2) 76:18 83:17 definitely (1) 7:24 delay (1) 56:2 delaying (2) 55:23 58:5 delivering (1) 107:25 demand (4) 35:6,13 51:5 57:8 demand (2) 57:7,10 demanding (1) 55:19 demonstrating (1) 127:25 demonstrators (1) 127:20 deponent (2) 99:7 116:13 deposed (2) 9:5 23:18 deposing (1)	76:6 deposition (14) 1:16 2:8 5:18 8:21 9:2 76:2 85:18 86:12 87:3 103:9 105:9 131:10,11 132:3 depositions (1) 23:16 DeROSA (6) 1:24 2:11 83:21,23 131:5,22 DESCRIPTION (1) 129:10 detail (1) 122:9 determination (6) 7:20 16:19 17:11,18 18:5 45:8 determining (1) 7:13 develop (1) 36:8 dialect (1) 38:16 dialects (1) 39:4 different (10) 22:4 23:7,7,21,22 30:7,11 34:3,13 65:15 differently (1) 106:24 difficult (4) 39:2,12,13 102:3 difficulty (2) 35:8 41:18 direct (3) 19:22 22:20 98:7 directed (1) 22:12 directing (2) 99:2 102:13 direction (2) 100:4 130:2 directly (4) 51:5 60:2 102:9 104:2 directors (2) 70:19,22 disagree (1) 18:9 discarded (1) 31:20 discharge (4) 37:12 90:10,22 91:9 discuss (5) 12:11 13:20 86:19 88:7 90:23 discussed (4)
---	--	---	--	---

<p>9:2 12:17,21 88:6 discussing (3) 88:11 101:17 121:15 discussion (3) 15:7 53:10 85:6 disrupting (1) 87:3 distant (1) 90:25 district (3) 1:2,2 22:24 diva (98) 1:9,10,10 14:9 19:5,6 59:11,12,19,21,25 60:3,4,5,9,14,19 61:14 62:9,21 63:10 63:13,15 64:2,7,13 64:17,20,22 65:2,10 65:13,15 66:21 67:6 67:18,25 68:5,22 69:11,18 71:14,15 71:20 72:3,8,13,18 73:8 74:16 75:11,14 75:17 79:10,21 80:14,16,20 81:17 82:14,19,21 83:3 94:18,21 96:8,12,14 96:21 97:19 98:4,9 100:5,10 104:3,18 104:19,23,24,25 110:9,11,13,23 111:6,12,23 112:7,9 112:10 113:11,13 113:15 114:9,20,24 116:2 128:7 Diva's (1) 67:9 division (1) 96:8 divulge (1) 17:11 document (51) 26:4 60:21,24 61:3,11 61:20 62:2 67:3,14 67:16 72:17 73:6,15 74:14,22 75:4,7 78:2,17 79:6 80:13 81:20 87:11,13,17 95:25 96:7 97:9,23 97:25 105:7 109:3,9 109:13 110:11,17 110:18,21 111:3 112:3,15,24 113:7 113:10 114:7,13,17 114:20 116:14 117:19,20 documents (33) 62:25 79:16 80:15 81:16,25 97:6,12</p>	<p>108:23 109:6,8,12 110:8,22 111:4,8,10 111:16,18,22 112:5 112:8,20 114:23 115:15,21 116:6 117:8,13,22 118:3 126:6,8 130:5 doing (5) 37:25 47:10 63:13 114:2,6 draft (1) 73:15 drafted (1) 81:25 drafting (1) 82:13 driving (1) 100:4 dual (2) 84:9 86:22 due (3) 123:8,10,15 duly (3) 5:3,7 131:11 duplicate (1) 76:24 duplicative (1) 76:19 D-O-N-G-S-A-E-N... 84:11 d/b/a (5) 1:7,8,9,10</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E (5) 3:2,2 4:2,2 5:7 earlier (10) 23:18 63:18 88:2,3 107:9 108:10 115:4 121:2,20 124:7 early (1) 13:22 EASTERN (1) 1:2 economy (1) 88:19 effect (2) 121:3,20 eight (1) 22:5 Eighth (2) 2:10 3:6 either (3) 12:3 38:13 112:6 elaborate (1) 85:20 electrical (2) 47:20,22</p>	<p>embarrassed (1) 18:22 emphasizing (1) 80:25 employed (3) 18:25 21:14,15 employees (2) 127:15 128:7 employments (1) 23:22 Ended (1) 128:15 ends (1) 113:12 English (6) 5:4,5 62:24 63:5 94:19 108:2 enter (3) 77:18 95:14 116:15 entities (2) 99:14,22 entitled (3) 22:9,13 59:11 entity (2) 98:8 111:11 eroded (1) 51:25 ERRATA (1) 132:1 errors (1) 132:7 especially (1) 47:22 ESQ (4) 3:8,9,16,22 established (2) 64:4 87:5 et (1) 132:2 events (2) 121:13,14 evidence (8) 12:2 14:2 15:6 19:19 27:25 28:8 37:16 105:4 exact (3) 89:8 105:6 114:15 exactly (12) 13:5 28:11,11,22 65:19 66:4 68:7 84:16 90:23 91:6 114:13 119:7 EXAM (1) 129:2 EXAMINATION (3) 5:10 122:25 125:25 examine (1) 53:2</p>	<p>examined (1) 5:8 example (3) 28:3 29:3 117:18 exchange (3) 29:12,17 90:17 excuses (1) 51:13 excusing (1) 55:19 exhibit (17) 60:22 61:8 77:19,21 87:11 95:15,16 96:4 116:15,16 117:10 129:10,11,12,13,15 129:16 exhibits (2) 77:24 129:9 exist (1) 112:21 existed (1) 96:12 existing (4) 80:19 90:24 93:6,7 expense (1) 77:14 experience (2) 23:20 90:18 explain (7) 35:4 62:16 78:16 86:10 101:16 108:14 125:3 explained (3) 62:18 84:14 88:18 explanation (2) 50:4 81:19 express (1) 81:9 expressed (4) 27:7,9,12 31:24 extent (3) 7:3 41:21 87:7 extra (1) 33:21</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>F (2) 1:3,4 fact (3) 23:19 25:7 103:20 facts (9) 12:2 14:2 15:6 19:19 27:25 28:8 37:16 105:4 132:6 fair (1) 51:24 fall (7) 30:20,22 34:12 43:15</p>	<p>43:15,22 55:15 familiar (6) 10:22 11:21 59:10,14 68:18 113:23 family (2) 125:18,20 far (3) 47:19 87:15 89:16 fast (1) 38:15 favor (1) 94:6 fee (1) 92:10 feel (10) 25:2 44:6 48:19,20 93:6 113:25 114:19 120:13 122:17,18 feeling (1) 65:20 felt (5) 49:4,5,20,21 124:9 fifth (1) 99:5 figure (3) 87:21 88:5,8 file (1) 118:4 filed (1) 12:7 filing (1) 129:14 fill (1) 120:9 final (1) 88:2 finally (6) 56:5 57:14,20,21 58:6 58:15 financial (3) 53:3,12,15 financially (2) 35:7 38:2 find (1) 38:11 finding (1) 23:20 fine (2) 41:5,23 finish (2) 6:9 120:16 finishing (1) 121:24 first (24) 5:3,7 9:6,7 10:10 11:9 21:20 43:8 46:18,23 48:2,9,12,24 49:23 54:2 59:20 60:17</p>
---	---	---	--	---

54:2 59:20 60:17 63:20 64:6,16,20 113:22 118:16 five-minute (1) 103:3 flood (1) 50:14 Floor (1) 3:14 Flushing (1) 69:20 follow (1) 103:21 following (4) 30:3,20 43:18 105:10 follows (3) 5:6,9 96:4 force (2) 53:5 91:21 form (4) 42:17,21 52:2 67:19 formal (2) 19:16 29:9 former (2) 25:16 92:24 forth (1) 131:10 forward (1) 103:9 found (2) 108:10 118:16 foundation (16) 15:4 22:7 27:16,24 37:16 57:5 61:19 62:3,10 63:11 74:17 74:23 89:2 112:13 113:19 125:19 four (14) 5:21,22 30:7,9,11 31:3 32:8 34:13 42:24 43:4,7 124:22 125:2,4 frankly (3) 49:4 63:24 89:3 free (1) 17:13 friend (1) 108:17 friendly (1) 48:18 friendship (1) 51:20 front (1) 127:22 frustrated (2) 113:25 114:19 full-time (2) 19:10,12	funny (1) 77:12 FURNISHED (1) 130:7 further (1) 131:14 <hr/> G <hr/> G (2) 5:2,7 general (2) 17:6 110:4 generally (1) 45:3 getting (5) 17:6 34:10 62:12 64:12 124:11 Ghim (147) 3:18,22 6:5 7:9,19 8:2 11:5,12,19,25 13:12 13:25 14:6 15:5,21 16:13,17 17:10,16 18:4,8,9 19:18 20:15 21:5,11 22:6 22:11,20 24:8,19 25:19,24 27:5,10,24 28:7,19 29:4,14 32:11,21 35:18,25 37:15 40:2,20 41:7 41:11,15 44:3 45:5 45:17,18,22,24 48:4 49:18 50:6 52:19 53:6 55:6 56:14 58:3,16 60:6 61:2,6 61:17 62:3 63:6,11 63:17,22 64:8 65:5 65:9 66:2 68:15 70:23 71:4 72:19 73:9,16 74:2,17 76:21 77:2,3,6,9,13 77:16 79:17 90:12 91:11,25 92:18 93:10,14 94:7,22 95:8,10,18 96:3,22 97:22 98:10,16,22 99:5,24 100:11 101:19 102:10,18 103:13 104:12,22 105:3,15 107:11 108:25 109:8,15,20 110:14,24 111:13 112:3,11,22 113:16 114:10,25 115:22 120:11,19,23 121:16 124:24 125:23 126:2 127:18 128:14 129:5 give (19)	6:14 7:7 19:22 22:24 44:21 49:2 51:14 54:9,25 56:16,20 58:11 65:17 68:2 98:19 102:4 107:13 115:9 120:17 given (4) 73:18 117:24 118:4 131:12 giving (3) 8:7 18:19 109:10 Glen (10) 14:14 19:7 24:12 47:5 106:4,7,8,11 127:6 128:8 go (15) 16:15 18:10 20:7 42:7 54:7,17 57:19 66:9 90:9,22 91:5 103:8 106:25 116:22 122:4 goes (2) 14:20 15:2 going (40) 5:19 6:10,13,21 16:17 17:16 22:20 36:7 40:4,20 42:7 45:6 45:16 46:13,16 52:24 60:20 75:6 76:9 92:10 95:7,14 97:16 98:11,23 102:7,10 103:17,24 106:12,23 113:11 113:25 116:5,6 118:2 120:17 121:10,11 126:4 good (4) 23:11 88:18,19 124:17 Grand (1) 14:13 great (1) 88:13 greater (1) 30:10 ground (5) 85:17,21 86:2,3,4 grounds (2) 45:23,24 GROUP (1) 3:11 guilty (1) 83:8 Guining (3) 1:11 3:13 14:20 G-U-I-N-I-N-G (1) 14:20 <hr/> H <hr/>	H (2) 1:9 5:7 habit (1) 44:18 half (6) 27:18,20 55:9 58:5,6 88:15 Han (43) 3:9 17:23 22:8,16 39:9,17 40:8,15,23 41:3,8 65:11,21,25 76:3,8,11,17 83:15 83:16 84:5 85:4,25 86:7 102:24 103:15 103:18 109:6,12,17 117:15 123:19,22 123:25 124:16 125:13,19 126:11 127:2,8,16,21 128:12 hand (1) 131:20 handle (1) 122:5 hands (2) 29:3,12 happened (18) 9:14 10:8 24:7 38:6 44:10 50:13 54:12 54:18 55:9 56:20 64:10,23 72:24 74:21 84:6 87:24 103:7 113:14 happening (2) 10:11 38:10 hard (12) 29:19 36:24 37:25 46:19 47:11 48:17 48:21 51:19 56:3 58:23,25 59:2 harder (1) 39:8 Head (10) 14:14 19:7 24:12 47:5 106:4,7,8,11 127:6 128:8 headache (4) 38:2,4 95:3 120:13 hear (5) 16:16 63:20 70:6 81:19 84:24 heard (11) 47:21 59:21 60:14,16 60:17 61:14 63:15 68:14 84:15 103:10 119:17 hearing (1) 66:4 Hearsay (3)	47:24 50:6 73:16 held (3) 2:8 23:7,22 hello (1) 52:22 help (7) 38:17 46:12 48:20 51:8 55:4 92:24 113:9 helped (4) 46:20 48:23 94:4 120:3 helpful (1) 42:5 helps (1) 55:14 hereinbefore (1) 131:10 hereunto (1) 131:19 hesitating (1) 49:3 higher (2) 89:11 90:7 history (1) 17:3 Ho (7) 26:4 27:2 82:9 118:25 119:2,14,24 hold (1) 70:5 holding (1) 117:6 holds (1) 94:12 home (7) 16:7,8,11,25 17:4 44:11,17 hope (1) 95:6 hours (1) 102:3 HUANG (1) 4:7 humorous (2) 77:11,13 hung (1) 52:22 hurry (1) 58:2 husband (2) 17:4 44:14 H-O (1) 82:10 H.A (2) 71:15,18 <hr/> I <hr/>
--	--	--	--	---

idea (2) 63:12 84:22	54:8	John (5) 1:11 3:9 15:2 83:16 125:7	Kim (8) 26:4 27:2 82:9 118:25 119:5,14,24 120:3	5:4,4 10:20,25 39:5,6 39:16 65:18 84:12 84:20 86:18 106:22 115:10 125:15
identification (6) 9:24 60:23 77:22 95:17 116:17 117:11	inside (4) 84:17 112:17 114:5 118:2	join (2) 102:19,24	Kim's (1) 119:2	Korgaonkar (61) 3:8 5:11,14 7:17,23 8:11 14:7 16:15 17:13,20 18:2,7 20:18 24:22 34:22 39:21 40:25 41:16 41:21 42:2,6 45:16 45:19 56:22 59:5 66:6,15 75:3 76:25 77:4,8,11,15,18 79:8 80:3,8 81:11 83:5,12 86:25 95:7 95:14,23 98:14 99:6 99:16,20 101:11 103:2,17 106:13,23 107:17 115:13 116:12 121:10 122:20 124:15 126:20 129:3
identifying (1) 86:21	instance (1) 76:20	Jomanna (4) 1:24 2:11 131:5,22	kind (38) 9:10 10:12 17:8 18:21 25:25 31:6 35:20 36:21 42:19 45:14 46:9,10 47:13 48:13 49:3 51:6,18 56:20 58:2 60:4 73:4,17 80:23 90:25 91:2,6 92:8 93:6 101:5,25 109:3,11 111:2 112:15 114:19 115:25 118:22 120:22	
imagination (1) 90:15	instruct (3) 16:17 17:16 45:6	Jong (6) 26:4 82:9 118:25 119:2,14,24	kinds (4) 44:7,25 110:20 122:9	
immediately (3) 96:20 97:19 98:9	instructed (1) 18:15	Judge (2) 17:21 22:15	kit (5) 118:18,20 120:3,5,10	
impair (1) 8:17	instruction (1) 99:9	judgment (1) 39:22	knew (6) 35:4 36:8 48:8 49:21 60:3,17	K-I-M (1) 82:11
imply (1) 125:18	Instructions (1) 6:7	July (4) 1:18 2:4 128:22 131:20	know (88) 6:10 12:14,16 15:13 19:2,21,21 21:7,9 21:10,13 23:2,5,10 25:4 26:23 36:7 39:17 40:3 46:2 55:10 57:11 58:14 60:19 61:25 62:7,21 63:2 65:4,8 69:19 73:18 74:24,24 78:9 78:11,14 82:17,23 86:17 87:15,23 90:18 91:16 92:10 92:12,14,15 93:4 94:19 96:2,6 100:4 102:5 103:7 105:11 105:12,21,24 106:2 107:2,24 108:8,12 109:10 111:3 112:16 113:20 114:4,6,20,23 117:3 117:3,25 118:5,6,25 119:15,19,23,24 120:8 126:3 127:12 127:24 128:13,13	
important (5) 6:24 25:3,5,6,8	insurance (3) 34:5,6,8	Jung (1) 27:2		
inaccurate (2) 65:16 76:21	interest (3) 46:5,11 67:5	Justice (2) 4:6,7		
incident (2) 122:4,19	interested (2) 85:25 131:17	J-A-E-K-W-A-N-G... 115:11		
incorporate (5) 68:23 99:13,22 100:5 126:23	interpret (5) 39:2 84:16,17,18,23	J-O-N-G (1) 82:10		
Incorporated (1) 64:22	interpreted (1) 5:4	J.H (54) 59:11,12,19,21,25 60:3,4,9,14,19 61:14 62:9,21 63:10 63:12,15 64:2,7 65:2,10,13,15 66:21 67:6,9,18,25 68:5 71:14 72:3,8,13,18 73:8 74:16 75:11,14 75:17 79:10 80:16 80:20 81:17 82:14 82:19,21 83:3 104:18,23,24 112:7 112:9 113:11,13 116:2		
incorporation (3) 100:3 129:13,15	interpreter (37) 5:2,9 34:20 36:12 38:14,23,23 39:2,19 39:23 40:3,12 41:20 42:4 65:7,11,12,23 66:3,12 71:17 80:23 81:6,9 82:10 84:2,7 85:14,15,21 86:3,11 86:23 105:17 106:19 115:11,14			
incorporators (1) 69:10	interpreting (2) 39:6 106:20			
INDEX (2) 129:1 130:1	interrogatories (2) 23:2 107:10			
indicate (4) 81:16 82:12,18 85:16	Irrelevance (1) 127:8			
indicated (5) 71:14 80:13 81:20 87:25 116:13	irrelevant (1) 93:17			
indicates (1) 87:17	issue (2) 38:9 86:15			
indicating (1) 79:24	issued (1) 105:22			
individual (1) 126:25	Item (1) 75:9			
industry (2) 21:19,25				
information (8) 16:14 17:5,12 22:22 23:6,23 45:7 130:7				
initial (1) 64:21				
initiated (1) 83:18				
inquire (2) 16:10 44:5				
inquiring (2) 18:20 45:14				
insert (1)				

61:22 92:10 99:8 lead (1) 19:24 leading (12) 19:18,21 21:7 27:10 32:21 58:3,16 61:18 91:25 104:22 124:24 125:13 leaking (1) 50:14 learn (1) 101:6 learned (14) 11:10,23 22:3 37:18 37:20 48:17 51:6 56:9 59:16 60:8 101:4,8,17 122:12 Lease (3) 77:20 78:20 129:12 leave (2) 40:8,23 Lee (51) 1:11,11 12:15,18,24 13:7 14:19,22 15:2 15:3 26:14 27:9,22 30:2 32:8,20,24 33:2,3,4,6 34:12 35:2,23 42:11 44:21 48:2 51:20 52:11 57:14 58:15 59:22 63:9 73:14,18 82:25 90:21 92:12,17 101:18 105:9 121:12 123:4,7,10 123:15 125:7,7,8 127:14 128:4 Lee's (2) 35:17 128:11 left (1) 108:6 legally (1) 92:15 legitimate (1) 9:24 let's (6) 40:23 41:3 83:12 88:19 103:2 120:16 level (1) 86:18 LI (1) 1:11 light (1) 103:24 line (17) 102:22 108:14 130:2 130:2,5,5,7,9,9 132:8,10,12,14,16 132:18,20 lined (3)	31:7,15 35:22 list (1) 75:19 listen (1) 102:8 litigation (7) 10:11 12:19,22,22 36:5 37:13 130:1 little (11) 18:22 38:18 39:24 42:8 53:19 89:10 90:6,20 92:24 93:2 101:23 live (1) 16:6 LLP (2) 2:9 3:3 loan (21) 29:25 31:7,25 36:23 38:3,3 45:3 48:2,9 48:25 49:2,4,8 50:8 51:17 53:5 58:24 89:5,9 90:17 92:4 loaned (9) 29:19 31:3,11 32:8 36:20,22 37:7 42:20 45:14 loans (10) 31:23 35:22 42:11,14 42:18,24 44:22 46:3 46:6 124:22 located (1) 14:12 location (1) 128:8 long (11) 26:13 27:13 38:15 48:3,6 54:13 57:18 57:20,23,23 108:9 look (3) 53:11,15 97:23 looking (4) 57:12 101:25 114:21 114:22 looks (4) 16:23 61:12 101:25 105:7 lot (6) 39:7 43:25 69:21,22 90:5 115:5 lots (2) 92:7,9 Lovely (3) 1:7,7 132:2 lower (1) 33:10 Luncheon (1) 59:4	M M (1) 3:8 mail (6) 71:11,19,21 72:2,7 109:18 Majoongmool (2) 1:8 3:12 making (7) 41:12 51:13 76:10,11 76:15,18 123:24 manage (2) 20:24 92:21 March (10) 13:21 67:4 74:14 77:20 104:10,11 105:8 113:12,13,14 mark (1) 80:22 marked (8) 60:22 61:8 77:21,24 95:16 116:16 117:10 130:9 marriage (1) 131:16 MASTER (1) 4:6 math (1) 34:18 matter (7) 10:4 22:25 47:20,22 51:16 128:3 131:18 matters (1) 7:11 mean (35) 9:13 12:5,19 14:23 15:17 16:8 19:16,17 20:2,4,11 26:22 28:2,9,21 29:6 37:24 44:8 51:16 56:7 59:18 70:11,13 82:15 91:17 93:3 106:8 109:18 112:20 114:13,15 117:4 119:6 121:4 124:8 meaning (7) 30:9 81:3 84:9,12,17 84:23 86:22 means (2) 79:13 126:15 meant (7) 20:25 42:21,22 62:2 67:5 74:25 75:18 media (1) 108:11 medications (1) 8:16	meet (3) 8:20 13:19 128:6 meeting (2) 13:17,19 mention (2) 60:2 65:13 mentioned (6) 38:7 64:7 68:21 107:9 111:17 119:11 met (1) 119:17 Michael (3) 3:16 83:18 119:20 middle (2) 90:7 121:5 mild (1) 46:10 mind (5) 58:20,20 119:5 120:8 122:7 mine (2) 52:8 60:25 Misrepresentation (...) 127:17 Misrepresentations... 79:23 missing (2) 34:18,21 Misstates (1) 63:17 mistake (1) 75:22 mistaken (2) 41:2,17 mistranslation (1) 120:25 misunderstanding (2) 97:16 120:25 moment (1) 61:6 monetary (1) 29:16 money (57) 28:15 29:2,11,12,20 29:25 31:3,8,11 32:8,20,25 33:7 34:12 36:22 37:4,7 37:8 38:3,4 44:11 44:13,15,16,17 45:3 46:14 47:8,12 49:6 49:16 50:3,9,10,12 50:22,24 51:5,7,8,9 51:10,12,14 53:17 54:7 56:2 57:11,13 58:12 73:23,24 92:2 92:9 122:15 124:9 124:18 month (5)	47:15 55:4,5,5 108:9 months (2) 46:23 54:25 morning (4) 5:13 59:8 107:9,21 motion (5) 56:11 75:23 102:11 106:4 107:2 move (5) 24:4 47:23 103:19 107:8 125:5 moving (2) 105:13,24 N N (5) 3:2 4:2 5:2,2,7 nail (42) 1:9 14:3,5,9,11 15:24 19:3,4 20:7,23,24 21:19,25 23:8 24:16 25:13 52:15,17 60:4 60:18 64:13,20,22 75:11,14 79:10,21 80:16,16 94:18,21 96:8,12,14,21 97:19 98:4,9 100:5,10 127:6 128:11 Nails (12) 1:7,7,8,8,9,10,10,10 3:13 19:5,6 132:2 name (42) 5:14 14:20 15:2,20 31:13 32:4,17 37:12 37:23 53:21 54:3,8 54:14,23 55:22 57:15 59:15 60:9 64:13,16,18,21 69:8 69:16 70:11,12 79:20 80:20 94:11 96:14 97:9 98:3 108:4,5 115:7,9,10 126:8,8,15 132:2,4 named (5) 12:14 14:19 15:2 79:9 119:19 names (2) 15:9 16:2 Nancy (4) 15:20,25 16:5 108:5 Natasha (2) 3:8 5:14 natural (1) 100:14 necessary (1) 122:10 need (11) 38:20 40:13 44:19 55:10 80:6,18 102:5
--	---	--	--	--

102:7 103:18 110:19 122:20 needed (5) 31:19 47:7,8 50:15 51:7 needs (1) 41:9 negotiate (1) 89:10 negotiating (2) 73:23 88:11 negotiation (1) 73:20 never (27) 9:14 10:8 11:15 12:21 23:18 37:8,21 38:3 38:6,7 56:19 58:24 60:13,16 61:14 63:15 64:25 65:3,14 66:22,22 68:13 73:3 81:23 83:11 120:4 128:5 new (26) 1:2,7,17,17 2:10,10 2:13 3:5,7,7,15,15 3:21,21 17:24 23:19 48:22 80:15 88:16 93:5 100:24 122:11 129:13 131:2,3,7 news (3) 10:20,25 108:11 newspaper (7) 10:15,18,21,24 11:2 37:18 108:19 nice (1) 48:15 nine (1) 46:23 nodding (1) 6:15 normally (4) 71:25 78:16 86:12,14 Notary (4) 2:12 5:3,8 131:6 note (8) 40:6 76:17 83:17 85:4 85:5,11 95:20 116:12 notebook (3) 31:22 35:22 42:20 notebooks (1) 31:15 noted (5) 6:16 7:18,25 17:14 116:24 Notice (1) 2:11 number (1) 88:10	NY (1) 1:7 <hr/> O <hr/> O (3) 5:2,2,2 oath (7) 6:25 7:2,2 59:8 87:6 123:5 126:4 object (5) 22:9 76:22,23 86:10 117:7 objecting (1) 15:5 objection (154) 6:7 11:5,8,12,19,25 13:12,25 14:6 15:4 15:21 16:13 19:18 20:13,15 21:5,11 22:6,7 24:8,19 25:19,24 27:5,10,16 27:24 28:7,19 29:4 29:14 32:11,21 35:18,25 37:15 44:2 44:3 45:5,22,25 47:23 48:4 49:18 50:6 52:2,19 53:6 55:6 56:11,14 57:4 58:3,4,16,17 60:6 61:17,19 62:3,10 63:6,11,17,22 64:8 65:5,8 66:3,6 67:19 68:10,15,17 70:23 71:4 72:19,21 73:9 73:16,21 74:2,17,18 74:23 76:4,24 78:21 79:17,22 81:18 83:20 85:13,17 88:24 89:2 90:12 91:11,24,25 92:18 93:10,14 94:7,13,22 95:12,12,21 96:22 97:20,22 98:10 99:24 100:11 101:19 102:10 104:5,12,21,22 105:3,15 107:11 108:25 109:20 110:24 111:13 112:11,13,22 113:16 114:10,25 115:22 117:17,20 120:11,19,23 121:9 121:16 123:19 124:15,16,24 125:13,19 126:11 126:20 127:2,8,16 128:12 objections (14)	6:6 7:17 17:14 18:3 22:14 45:20 76:3,8 76:13,15,19,20 95:9 123:24 objects (1) 22:12 obligation (3) 90:11 121:18,24 observe (1) 22:11 occasion (1) 63:21 occasionally (1) 13:9 October (4) 55:13 87:25 88:4,23 offense (1) 77:16 offer (1) 58:8 offered (1) 35:11 office (8) 26:15 27:2 61:23 115:2,4,16 119:2 122:22 officers (1) 71:2 offices (2) 2:9 3:18 official (1) 70:4 oh (12) 9:6 13:8,21 46:22 56:9 69:6 70:20 79:13 84:5 86:7 95:18 100:25 okay (48) 6:11 8:20 9:18 10:6 12:11 15:19 16:21 18:24 19:4 20:22 21:3,17 24:17 27:19 27:21 29:21 30:12 41:15 43:14,23 54:16,23 59:17 60:20 65:16 68:21 75:8 78:6 79:8 81:4 81:22 86:20 87:4 99:13 109:17 111:20 112:2 116:9 117:16 118:15 121:22,23 123:17 124:2,21 125:21 126:18 128:14 Old (1) 128:11 older (1) 125:12 once (11)	12:10 13:11,14,17,18 35:11 36:10 43:21 51:4 104:15 112:16 open (4) 46:19 47:13 72:6 122:11 opened (2) 46:23 50:2 operate (1) 46:25 operating (1) 47:16 opportunity (2) 120:17 121:8 opposed (1) 42:2 order (17) 7:13,21 16:14,20 17:24 18:6 21:12 22:23 45:9 89:18 92:4 98:13 102:11 103:19,22 105:14 105:22 ordered (1) 107:14 orders (1) 107:16 original (5) 25:21 33:8 71:12 96:18 117:6 originally (2) 35:12 89:11 outcome (1) 131:17 outset (1) 7:10 outside (4) 33:17 53:18 64:15 127:20 Overbroad (2) 120:23 121:9 Overly (1) 45:5 overview (1) 23:21 owe (3) 32:20,24 34:23 owed (4) 33:12,14 89:7 91:10 owes (2) 33:6 35:2 owned (6) 49:9 97:18 98:8 101:3 104:3,9 owner (32) 19:12,14,16,17 20:3,5 20:8,10,12,25 24:11 24:18 25:16,21	52:22 80:15 92:25 93:5 96:15,15,16,18 96:20 97:10,11,25 98:3 104:7,14,16 108:3 110:11 ownership (18) 25:11,13 32:3,17 52:8 62:6,22 64:3 72:25 74:6,9 80:2 96:11 96:13 113:15 114:9 122:16 126:24 owning (1) 114:2 owns (2) 110:9,23 <hr/> P <hr/> P (4) 3:2,2 4:2,2 page (19) 78:4,25 129:2,10 130:2,2,5,5,7,7,9,9 132:8,10,12,14,16 132:18,20 paid (21) 28:16 33:20 34:4,7 36:17 37:21 43:10 57:11 58:24 89:17 89:20,22 90:21,24 91:8 92:4,4,5 93:13 93:24 124:11 paper (9) 31:6,15 35:22 74:5 108:6 111:7 113:12 116:2 120:10 parking (3) 69:21,22 115:5 part (5) 41:18 51:11 64:17 70:6 77:14 participate (1) 73:19 parties (2) 76:23 131:15 parts (2) 75:4,6 party (6) 9:21 10:6 86:17 89:18 119:14 123:24 part-time (2) 19:9,11 pay (21) 33:16 34:2 35:6,9 36:23 37:2,10 46:24 47:15 49:9,13 50:7 53:20 73:3 91:5 93:8,12 94:2 123:18 124:13,20 pending (1)
---	---	---	--	---

106:5 people (9) 5:21 44:11 45:15 68:25 84:19,20 92:3 101:9 125:15 period (1) 49:7 permission (1) 39:20 permit (3) 47:14,17,20 person (14) 9:25 10:24 11:3 14:19 14:23,25 36:22 46:10 48:13 51:3,6 57:13 98:8 119:2 personal (7) 7:11 16:13 17:12 18:19,21 22:21 45:7 personally (1) 91:7 pertaining (1) 7:11 phone (2) 51:4 103:7 photocopied (1) 117:14 photocopy (1) 117:5 physically (1) 116:14 picked (2) 118:5,6 pile (1) 72:9 place (7) 25:23 27:15 54:4 55:16 69:17,21 104:20 plaintiffs (7) 1:5 3:4 5:15 83:16 105:13,24 127:10 plaintiff's (3) 76:15 102:18 112:4 played (1) 81:23 please (14) 16:22 20:19 34:10 76:4,13,17 81:12 85:5,11 98:21 101:16 116:12 123:4 124:4 point (6) 5:20 6:19 104:8,18 105:12 120:15 pointing (1) 85:13 portion (21)	8:13 18:12 20:20 24:24 30:15 53:8 54:21 56:23 60:11 66:10 70:9 80:10 81:13 83:9 93:22 99:18 101:14 105:19 106:15 107:19 124:5 position (3) 70:4,13 124:3 positions (3) 22:5 23:7,21 possession (1) 118:9 practice (1) 110:5 premise (6) 72:10 79:3 80:6 110:3 111:19 114:5 premises (3) 50:15 101:10 112:17 prepare (1) 8:21 prepared (3) 82:2,3,5 presence (1) 85:9 present (4) 4:4 26:17 85:6,7 president (32) 64:25 65:3,10,13,14 65:15 66:20,23,24 67:9,25 70:15,16 71:9 74:25 75:15,17 79:12,14,21,25 80:14 81:17,21,24 82:13,19,21 83:2 97:5,11,14 pretty (2) 23:15,23 prevent (1) 8:7 previous (7) 83:25 96:15,16 97:25 101:12 123:13,13 previously (8) 32:19 33:13 63:14 123:6,9,13 124:21 125:10 price (13) 33:11 87:14,18,25 88:2,12,14,16,16,17 88:20,23 89:12 principal (1) 69:17 prior (7) 61:15 96:13,20 97:19 98:9 104:3 105:12 privilege (2)	22:9,16 probably (5) 13:22 34:4 82:4 89:9 110:18 problem (6) 22:14 74:11 92:8 101:4,9,16 problems (6) 91:23 101:5,6 122:5 127:14,15 proceed (1) 93:17 proceedings (1) 93:18 process (7) 25:25 61:23 74:6 80:18,25 114:3 118:17 processed (1) 60:9 produced (2) 111:20 112:4 production (3) 109:9,14 130:5 promised (1) 50:7 properly (3) 68:20 102:4 122:6 protection (1) 126:24 protective (12) 7:13,21 16:14,19 17:24 18:6 21:12 22:22 45:8 98:13 102:11 103:19 protest (4) 36:10 37:25 53:18 101:10 protested (1) 91:16 protests (1) 36:16 pry (2) 23:14,24 public (6) 2:13 5:3,8 69:20 115:5 131:6 purchase (6) 26:19 87:14,15,18 108:13 126:16 purchased (5) 52:25 53:2 67:7,9 126:18 purchaser (2) 75:11,14 purchasing (1) 91:17 purpose (11)	15:10,11 23:11 100:9 100:15,17,18,20,22 100:22,24 pursuant (2) 2:11 10:3 put (5) 44:16 53:21 64:22 92:2 106:24 p.m (2) 59:4 128:15 <hr/> Q <hr/> qiao (1) 1:4 Qixing (2) 1:11 15:3 question (108) 6:9 8:6,10,12 11:16 11:25 14:8 16:18 18:15,17 19:20 20:2 20:19 21:6 22:18,25 23:12 24:5,9,23 25:3,10 27:6 28:4 29:5 32:7 33:22 40:11 45:12,14 54:19 55:7 56:15,15 61:18 64:6 65:17 66:9,9,14,16,19 67:12,15 68:2 69:4 70:7,8 73:17 78:13 80:4,9,22 81:5,12 82:16 83:6 90:13 93:16,21 94:15 95:3 95:6 96:24,25 97:17 97:18 98:6,7,12,17 98:18,20,23,25 99:3 99:4,17,21,25 101:2 101:22,22,24 102:4 102:8,14 103:14 104:15 105:18,23 106:14,17,24 107:13,15,18 109:11 111:12 113:21 117:12 120:5,20 124:4,25 126:21 127:4,21 questioned (2) 16:24 44:7 questioning (8) 16:25 17:8 19:23 28:12 68:5 72:14 95:19 97:8 questions (25) 7:10,15,19 14:18 17:2 17:9 18:3,5,20 21:7 23:25 24:4 44:7 56:16,21 90:14 95:4 102:7 110:20 120:16 122:24	123:4 125:24 126:5 130:9 quick (2) 125:5,24 Quite (1) 27:17 Q-I-X-I-N-G (1) 15:3 <hr/> R <hr/> R (2) 3:2 4:2 raised (1) 95:11 rarely (1) 52:21 read (40) 8:11,14 10:24,25 12:3 12:9 18:13 20:18,21 24:25 30:16 53:9 54:22 56:24 60:12 62:24 63:4 66:11 70:10 75:4,6 78:24 79:5 80:3,8,11 81:14 83:5,10 93:23 99:19 101:11,15 105:20 106:16 107:20 108:18 124:6 126:7,10 real (10) 19:16,17 20:3,4,10,11 20:25 25:13 39:16 125:5 realize (2) 23:17 73:7 really (16) 5:19,20,23 19:25 20:11 21:2 25:3,4,8 41:3 47:11 49:2 51:3,19 55:10 125:24 reason (15) 7:5 8:6 9:16 26:24 35:6 58:8 79:25 132:5,8,10,12,14,16 132:18,20 reasonable (1) 18:11 recall (9) 10:19 30:17 44:24 45:2 78:8 90:2 116:11 118:7,8 receive (6) 71:10 72:2,10,13 91:22 111:17 received (7) 50:5 71:19 72:8 92:11 92:22 111:8,24 receives (3)
---	---	---	---	---

71:11 109:22 110:6 receiving (1) 107:10 Recess (5) 38:22 59:4 83:14 94:10 103:4 recognize (4) 60:24 78:2,3 95:25 record (57) 7:18,25 8:14 15:7 16:12 17:7,9,15 18:10,13 20:21 24:25 30:16 31:16 35:5 38:25 40:7 46:2 53:9,10 54:22 56:24 59:6 60:12 65:25 66:7,11 70:10 76:10,12,16,18 79:9 80:11 81:14 83:10 83:17,24 85:5 86:15 93:23 94:25 95:10 95:15,20 99:19 101:15,23 103:5 105:20 106:16 107:20 116:13 124:6 127:17 131:12 132:6 records (20) 30:23 31:2,10,19,21 32:9,10,13 34:25 35:16,20,21 44:22 44:25 53:3,12,15 116:25 117:23 129:16 Redundant (7) 13:12 15:21 20:15 25:19 94:7 96:22 111:13 refer (2) 14:22,25 referencing (1) 127:5 referring (10) 13:24 35:21,22 59:19 65:22 66:2 96:17 109:7,15 110:14 reflect (1) 79:9 reflected (1) 94:25 refuse (2) 7:24 101:21 refused (1) 55:21 refusing (6) 8:2 18:16 45:11 99:3 99:10 102:16 regarding (4) 87:14 96:8 106:4	107:3 Regardless (1) 19:11 regular (2) 13:17,19 regulation (1) 68:19 related (4) 108:24 125:6,8 131:15 relationship (11) 52:6,10 68:4 91:2,2 92:17 123:7,10,14 125:18,20 relayed (1) 108:18 Relevance (5) 11:5,12,19 21:5 22:6 remain (1) 7:15 remember (10) 13:5 22:18 26:9 30:12 34:5 43:3,5 61:10 78:7 89:17 remembered (1) 121:2 remind (2) 59:7 87:6 reminded (1) 123:5 renders (1) 7:16 rental (5) 46:24 47:15 89:17,20 89:23 repeat (19) 24:22 36:13 41:22,24 66:8,9,15 70:8 77:23 81:11 93:21 95:6 99:16 105:17 106:13,20 107:14 107:17 124:4 repeated (1) 54:20 repeatedly (5) 24:16 37:5 51:15 53:17 55:22 repeating (1) 95:2 rephrase (2) 123:11 127:18 Reported (1) 1:24 reporter (4) 2:12 6:13 85:5 131:6 represent (1) 12:12 representations (1)	75:25 request (6) 7:14 33:10 53:17 77:23 102:8 130:5 requested (22) 8:13 18:12 20:20 24:24 30:15 43:9 53:8 54:21 56:23 60:11 66:10 70:9 80:10 81:13 83:9 93:22 99:18 101:14 105:19 106:15 107:19 124:5 required (6) 16:10 17:23 18:2,4 84:22 112:14 reserve (1) 121:21 resolve (1) 40:21 respect (2) 99:8 103:21 response (1) 83:24 restate (3) 97:2,16 121:11 restaurant (1) 48:11 restrain (1) 105:14 restricted (1) 17:24 result (1) 51:21 retained (1) 82:6 return (7) 37:4 38:4 50:3,24 51:7 58:12 124:18 returning (2) 54:6 124:8 right (38) 12:20 16:9 24:13 28:11,13,14 29:7,22 34:10,18 35:17,24 36:6 52:12 56:25 57:9 59:13 64:4 67:10,11 69:3 70:22 73:8,11 75:13 76:23 78:19 81:15 86:8 87:19 91:19 103:12 105:2,11 106:10 109:25 111:21 119:22 rights (1) 67:17 risky (1) 53:19 Road (5)	14:15 19:7 47:5 127:6 128:8 role (1) 81:23 room (1) 38:21 ruling (3) 7:22 8:4 130:9 rumor (3) 10:12,13,14 running (2) 51:11 60:18 RYAN (1) 4:8 <hr/> S <hr/> S (3) 3:2 4:2 5:2 sale (4) 67:17 105:14 123:8 129:11 salon (75) 14:4,5,9,11,14 15:24 16:3 19:3,4,12 20:7 20:23,24 24:12,16 25:11,13,15 26:2,4 26:20 33:17,23 34:16 35:16 37:12 52:11,16,17,25 54:3 57:15 60:4,18 67:6 68:9,13 72:17 74:14 80:16 88:25 91:16 91:23 92:12,22 94:5 94:12,20 96:11 97:19 98:8 100:23 104:4,9,19 105:14 106:4,7 107:3 108:24 109:22 110:6,9,12,23 111:5 111:11 113:11,13 113:15 114:8,24 127:6,7 128:11 salons (1) 23:8 SAMI (1) 4:5 sarcasm (1) 77:7 saw (5) 12:24 13:5 48:12 51:4 108:18 saying (12) 16:16 31:17 37:4 39:18 40:4 44:4 65:20 81:7 86:5,9 86:21 107:4 says (3) 75:13 79:11 80:19 scheduled (1)	105:9 second (4) 30:19 48:25 88:16 115:10 see (22) 12:25 13:3,4,7,8,10 13:14,16,18 26:8 27:11 50:25 51:3 75:3 79:13 81:20 87:2,2 96:4 105:6 116:19 117:18 sell (2) 28:13 89:14 seller (1) 90:11 selling (1) 67:5 sense (1) 31:9 sent (3) 12:6 22:25 109:16 separate (1) 124:22 September (1) 55:12 series (1) 42:14 serious (1) 72:11 seriously (4) 67:20,21 68:6 73:3 set (3) 89:8 131:10,20 shape (1) 88:18 shareholders (1) 71:7 SHEET (1) 132:1 she'd (1) 89:9 she'll (1) 40:6 shorter (1) 42:5 Shorthand (2) 2:12 131:6 show (11) 10:22 32:13 60:20 65:25 74:5 110:9,16 110:22 111:5,10 114:23 showed (1) 115:24 showing (3) 110:11 112:5,8 shown (1) 126:7
---	--	--	---	---

shows (2) 113:11 114:8	soon (1) 75:16	stake (2) 22:10,17	126:13 128:9	sympathetic (3) 23:19 46:9 48:21
shrugging (1) 6:15	sorry (12) 17:7 38:14 43:19	standard (4) 23:15,23 39:5,16	structure (1) 28:5	
sibling (3) 11:6,6 84:13	44:18 56:18 71:17	start (17) 21:18,20 24:14,15	structured (1) 28:18	T
side (2) 76:15 121:12	76:5 77:3,16 99:20	25:7,12,13 26:11	subject (4) 7:20 16:14 22:22 45:8	take (17) 25:22 31:8 35:10
SI EW (1) 1:3	122:18 128:8	36:25 48:6,25 49:16	submitted (1) 7:14	36:14,15 43:24 54:4
sign (15) 61:24 62:5,11 64:3,15	sort (1) 16:24	69:6 84:3,3,4 114:2	Subscribed (1) 128:20	55:16 58:22 73:2
73:6 74:9 78:6,17	source (2) 44:8,13	started (4) 21:25 29:22 30:13	sued (1) 92:13	77:6 80:19 83:12
79:15 80:6 114:7	so-so (1) 92:20	52:15	suffer (1) 51:21	92:5 103:2 104:20
115:15,20 116:6	spa (19) 1:9,10 3:13 21:19	starting (1) 42:13	sufficient (2) 22:11 47:13	124:10
signature (5) 60:25 75:21 78:4,25	75:11,14 79:10,21	state (7) 2:13 17:25 95:20	suggest (6) 35:10 53:19,20 54:7	taken (5) 9:4 38:22 83:14 94:10
79:11	94:18,21 96:9,12,14	121:14 129:13	88:20 91:4	103:4
signed (28) 61:4 62:6,14,17,22	96:21 97:19 98:4,9	131:2,7	suggested (2) 88:17 89:10	talk (8) 11:10 14:3 16:21 17:3
64:5,11 67:3,15	100:6,10	stated (8) 32:9 33:13 34:11	suit (2) 11:21 12:12	18:22 113:22,23
72:16 74:5,10,10,12	space (1) 15:3	45:23,24 85:6 123:6	Suite (1) 3:20	121:22
74:20 75:2,16 78:8	speak (5) 11:18 38:18 39:24	127:13	summer (2) 43:20,21	talked (6) 10:16,17,20 11:15
78:15 79:2,25 80:14	65:18 86:8	statement (9) 38:24 41:12 42:5 56:7	summertime (1) 30:21	51:4 113:10
97:5,13,24 113:24	speakers (1) 102:23	63:18 98:19,21	SUPPORT (1) 130:1	talking (5) 42:10 46:11 47:3
116:7,10	speaking (10) 5:21,25 6:3 49:5	111:24 121:21	supposed (2) 22:10 74:8	55:22 84:4
signing (10) 61:10,25 62:8 63:25	63:24 76:3,8,12	statements (5) 39:10 71:10,13	sure (8) 8:5 20:4 68:3 103:6	television (4) 10:18,22 11:4 108:12
67:4,14 68:8 78:7	83:16 89:3	109:19 110:5	118:7 119:13,24	tell (15) 34:10 37:13 43:6
78:10,14	speaks (2) 38:15 117:21	states (3) 1:2 74:22 75:9	123:25	57:14 58:19 59:24
simple (2) 90:16 122:14	special (1) 110:18	stating (2) 32:5 95:23	Susan (61) 1:11 3:18,22 12:14	63:9 80:12 82:25
simply (5) 72:25 90:16 95:11	specific (1) 86:22	station (1) 10:19	14:19,22 25:16 27:9	84:6 97:3 119:3,9
97:24 98:8	specifically (1) 7:11	stop (2) 6:20 49:8	27:22 28:16 29:6,18	120:15,21
single (2) 63:3 76:20	speculation (4) 56:12 58:18 75:24	stopped (1) 121:5	32:8,19,24 33:2,3,4	tendency (1) 44:11
sister (10) 48:14,14,19,19 84:21	124:16	store (4) 126:8,16,19 127:20	33:6,20 34:12 35:2	terms (3) 39:7 73:25 124:8
108:17 125:12,14	Speculative (2) 78:22 81:18	story (3) 120:15,21,22	35:7,17,23 36:20,21	testified (9) 5:8 9:8,11 10:3 123:9
125:16,18	speed (2) 39:4 41:19	straightfully (1) 122:5	42:11 44:21 48:2	123:14 124:7,21
sit (1) 16:23	spend (2) 50:9,12	strained (3) 123:7,10,14	51:20 52:11 57:14	125:11
sitting (1) 18:18	spoke (1) 38:24	strange (1) 110:20	59:21 63:9 73:14,18	testify (1) 8:18
situation (4) 20:2 40:21 51:18	spoken (1) 84:10	Street (2) 3:14,20	82:25 83:4 88:6	testifying (3) 7:3 9:10 87:8
57:12	spring (12) 26:7 29:23 30:14,19	strike (23) 25:14 28:3 47:24	89:21 90:21 92:12	testimony (5) 7:7 8:8 75:24 96:5
skill (1) 86:18	34:11,17 42:14 43:9	56:12 57:19 58:13	92:17 96:19 101:4,7	131:12
slightly (1) 89:6	43:12 48:2 55:17	67:14 70:18 73:13	101:9,18 104:7	thank (15) 5:12 8:20 10:9 21:17
slow (1) 41:25	57:16	75:20,23 77:17	105:9 121:12 123:3	43:23 44:20 55:14
slower (3) 38:19 39:24 42:8	ss (1) 131:3	88:21 99:20 104:8	123:7,10,15 125:6,8	66:7,17 103:23
sold (1) 62:4		112:7 119:18 123:8	127:14 128:4,10	109:5 119:16
		123:11 125:4,7	SWEENEY (1) 4:8	122:21 125:21
			sworn (4) 5:3,7 128:20 131:11	128:14
				thick (1) 23:2
				thing (10) 50:11 56:20 63:3
				72:12 73:4 101:24

111:9 115:6 121:4 128:3 things (6) 18:21 23:10 35:4 116:10 122:8,10 think (62) 6:10 7:6 8:7 9:19 13:20,21 18:9 19:2 19:20 23:9,17 25:12 26:23 30:5 31:19 33:6 34:4,5,8 41:9 41:16 45:10 46:10 48:6,10 52:4 53:25 55:12 56:8,9,13,21 56:21 65:17 66:12 67:20,21 69:8 73:13 82:4,7 84:22 86:13 86:25 89:16 90:4,14 94:15,24 97:15 98:12 105:25 106:20 108:21 111:22 113:6 116:20,20,24 118:12 121:6 122:13 thinking (2) 49:2 67:24 thinks (1) 33:4 third (3) 30:21 43:19 86:17 Thong (3) 1:3 4:5 132:2 thought (18) 18:22 33:11 37:21 48:12 49:10 53:18 54:2 56:19 67:23 72:25 86:7 89:9 90:15 110:19 122:15 124:18 126:22 127:3 three (2) 118:13,14 threw (5) 32:14,19 35:16,23 36:4 time (75) 5:23 6:3 9:6,7 11:9 12:23 20:25 27:14 29:19 30:6,18,19,21 36:4,24 37:25 39:20 40:12 43:13,16,17 43:18,19,22 44:15 46:7,19 47:11,25 48:12,18,20,22,24 49:5,7,24 50:10,18 50:19,20,21 51:14 51:19 53:2 55:11 56:3 57:21 58:23,25	58:25 59:2,21 60:17 62:7 63:15 64:7,18 75:22 87:18 88:12 88:22 89:16 93:8 95:4 97:25 98:2 99:5 103:25 108:13 108:14 118:22 121:23 122:13 128:15 times (15) 3:5 10:16 30:8,10,11 30:13,24 31:4 32:8 34:13 43:4,7 52:16 52:17 125:2 title (5) 64:14 70:14 71:13 78:19 115:3 today (18) 5:18 6:25 7:6 8:7,22 17:5 56:3 90:19 92:3 93:17,18 97:23 110:16,17 121:15 122:12,17 126:7 today's (2) 8:21 90:14 told (26) 10:13,23 11:3,6 24:15 29:18 37:9 38:11,13 47:19 61:21,24 62:11,19 63:25 64:2 74:8 94:24 97:3,6,6 97:11 108:4 115:3,5 121:12 totaled (1) 34:13 totally (1) 52:8 trail (1) 113:12 transaction (20) 27:23 28:6,10,17 29:9 29:13,17 32:23 33:17,23 35:15,23 60:10,14 61:15,16 67:24 80:7 90:16,25 transcription (1) 132:7 transfer (22) 25:22 26:2 27:14 29:2 32:3 37:12,19 54:4 54:15 55:16,21,24 55:25 56:6 57:15,17 61:22 63:16 94:20 104:19 112:6,9 transferred (13) 25:11,15,17 27:12 31:13 34:16 55:13 74:15,15 104:18 111:5,11 114:24	transferring (3) 54:3 61:23 74:6 translate (5) 6:3 40:15,17 42:7 75:5 translated (1) 95:22 translation (12) 11:8 53:7 60:7 65:6 65:16 66:4 85:12,17 85:24 86:6,14,21 translator (4) 38:18 83:19,20 85:9 travel (1) 38:8 trick (2) 23:25 25:2 tried (2) 64:13 121:4 trouble (6) 32:2,2 35:9 39:25 46:8 92:15 true (3) 80:5,25 131:12 trust (6) 51:25 52:4 76:25 77:5 123:18 124:8 truthful (2) 7:7 8:8 try (5) 19:20 38:17,18 97:2 106:23 trying (10) 19:24,25 23:5,24 25:2 47:8 55:18 68:8 112:25 122:3 Tuesday (2) 108:8 127:22 turn (2) 78:4 87:10 TV (3) 10:16,23 108:18 twisted (1) 91:2 two (6) 9:19 30:3 44:14 54:25 76:14 89:15 type (1) 8:3 <hr/> understand (62) 6:19,25 8:10 14:19,24 19:25 20:11 21:24 30:5 32:18 34:9 37:6 38:15 40:6,9 40:10,16,17,18,22 40:22 41:4,7,9,14	42:3 55:4 56:5,13 56:22 57:2 64:24 66:13 67:4,13,16 68:8,12,19 69:3 72:14,16,24 73:11 74:13 77:9 80:15 86:17 96:24,25 98:5 98:15,16 100:25 106:17,21 107:7 108:2 113:9 114:14 116:4 126:9 understanding (4) 65:19 113:24 126:12 126:14 understood (6) 6:22 39:11 67:8 68:11 91:14 94:9 unfair (1) 44:6 unfounded (1) 95:24 UNITED (1) 1:2 Urban (2) 4:6,7 USA (1) 15:17 use (3) 35:13 46:14,16 US (1) 21:22 <hr/> V <hr/> v (2) 1:3 132:2 Vague (1) 121:17 value (1) 88:25 verbal (1) 6:15 version (1) 121:14 view (1) 61:3 visit (2) 52:17,18 Viva (2) 1:10 3:13 voiced (1) 83:20 <hr/> W <hr/> wages (3) 93:8,12,13 wait (1) 61:8 waiting (1)	28:4 Wall (1) 17:21 want (23) 14:17 17:20 21:13 24:6 25:4 27:12 35:13 36:15 45:13 49:8 56:4 59:6 87:10 89:9 91:5,22 101:5 113:9 114:22 118:10 120:21 121:7,13 wanted (8) 27:7 36:14 37:22 46:11 86:7 115:17 120:15 126:24 wanting (1) 121:7 wasn't (6) 45:25 63:25 64:14 85:12 91:6 105:5 waste (1) 92:9 wasting (1) 95:4 water (1) 50:14 way (18) 18:20 21:7 28:12 33:5 34:3 35:5 36:8 38:13 48:16,24 58:10 81:2,8,10 117:25 122:14 124:13 131:17 Wednesday (1) 1:18 week (3) 13:11,15,17 weeks (2) 118:13,14 went (26) 12:9 16:3 24:10 26:4 26:5,7,15 27:11 54:8 57:21 61:22 69:14,14,22,23 74:7 92:9 107:21 113:13 115:2,4,16 116:18 118:15,16 119:2 weren't (1) 109:13 West (2) 3:14,20 we'll (5) 39:22 40:8,17 86:25 125:5 we're (10) 17:6 41:5 42:7 47:3 59:6 87:4 97:15 103:5 116:14
--	--	---	---	--

121:24 we've (3) 64:4 87:5 121:14 whereof (1) 131:19 whining (4) 46:7,8 48:23 51:9 wise (1) 77:2 wish (5) 21:6,10 23:5 24:3 102:19 withdraw (1) 117:16 witness (25) 3:19 9:13,15 20:16 39:3,13 40:13 45:17 56:25 65:19 66:5,13 76:19 84:11,16 106:19,21,25 107:18 129:2 130:2 131:9,13,19 132:4 witnesses (1) 39:8 woman (1) 12:14 wonder (2) 72:11,12 word (1) 39:15 words (3) 86:10,22 102:2 work (14) 5:15 19:2,9 20:6,7,23 21:2 24:10 25:12 40:5 52:11,18 107:21 128:4 worked (5) 23:12 44:14 52:21 93:9 128:7 workers (3) 36:11 37:24 93:7 working (15) 15:24 21:18,20,25 24:14,15 25:7 26:11 48:10 52:15 69:6 81:21 92:3 97:4,13 worried (1) 49:12 worth (2) 33:23 34:17 wouldn't (7) 7:6,21 31:8 36:9,22 51:7 53:14 write (1) 31:5 writing (2) 6:14 31:7	written (4) 10:15 26:3 31:2 111:24 wrong (3) 41:17 59:2 75:22 wrote (3) 31:4,22 42:19 <hr/> X <hr/> Xia (1) 1:3 <hr/> Y <hr/> Y (4) 5:7 64:21 129:3 132:4 YA (1) 64:22 yeah (6) 64:22 77:13 82:4 84:5 85:22 102:24 year (19) 21:20 27:18,20 30:20 30:20,22 34:17 43:15,16,18 49:15 55:9 58:6,6 88:15 99:14,23 100:6 108:22 years (5) 9:20 22:5 23:8 30:3 39:7 yesterday (1) 7:14 yielded (1) 57:6 Yim (83) 3:11,16 6:7 11:8 15:4 20:13 22:7,12,13 27:16 41:13,24 44:2 45:23 47:23 52:2 54:19 56:11 57:4 58:4,17 61:7,19 62:10 66:8,17 67:19 68:10,17 70:8 71:16 72:21 73:21 74:18 74:23 75:23 76:5,9 76:14 77:23 78:21 79:22 80:22 81:4,7 81:18 83:18,23 84:4 84:8 85:11,15,19,23 86:5,9,20 88:24 89:2 91:24 94:13 97:20 98:6 102:21 104:5,21 111:14 112:13 113:18 114:12 117:7,12,16 117:20 121:9,17 122:23 123:2,20,23 124:2 125:21 129:4 Ying (10)	1:16 2:8 3:19 15:9 75:11,15 79:11 128:18 131:9 132:23 York (18) 1:2,17,17 2:10,10,13 3:5,7,7,15,15,21,21 17:24 129:13 131:2 131:3,7 younger (4) 11:6 84:13,19 108:16 Yue (1) 1:3 Y.A (30) 68:22,24 69:11,18 70:15 71:16,18,20 94:18,21 96:9,12,21 97:19 98:9 100:6,10 104:3,19,25 110:9 110:13,23 111:6,12 111:23 112:10 113:15 114:9,24 <hr/> \$ <hr/> \$10,000 (3) 90:4,21 91:8 \$108,000 (7) 26:21 33:11,24 34:18 35:13 62:5 87:16 \$12,000 (3) 34:19 35:2,6 \$120,000 (5) 30:4,6 33:14,15 34:14 \$135,000 (4) 87:18,21 88:5,23 \$20,000 (1) 43:17 \$30,000 (1) 43:16 \$40,000 (1) 43:18 \$50,000 (2) 43:9,13 <hr/> 0 <hr/> 08-CV-3469(TCP(... 1:6 <hr/> 1 <hr/> 1 (5) 60:22 87:11,11 129:11 132:6 1st (19) 19:15 20:8,10,23 21:4 21:14,16 24:7,12 25:8 26:12,13 52:16 65:4,10,14 69:7 104:14,17	1:34 (1) 59:5 10th (1) 77:20 10,000 (1) 90:7 10:09 (1) 2:5 10001 (1) 3:15 10018-1405 (1) 3:7 10027 (1) 3:21 101 (1) 130:4 108 (1) 89:13 116 (1) 129:15 117 (1) 129:16 12 (1) 3:14 12,000 (1) 34:22 12:21 (1) 59:4 121 (1) 3:20 122 (2) 3:14 129:4 125 (1) 129:5 135 (1) 89:13 135,000 (2) 33:9 35:12 15 (4) 1:18 2:4 26:16,16 16 (3) 100:7 130:3,4 16th (7) 99:14,15,23 100:6 104:10,11 105:5 19th (8) 67:4 74:14 104:10,11 105:8 113:12,13,14 <hr/> 2 <hr/> 2 (6) 3:20 75:9 77:19,21 129:12 132:6 20 (2) 3:20 43:17 20th (1) 131:20 20,000 (1)	43:20 2001 (2) 15:18 22:2 2003 (2) 48:7,9 2005 (7) 29:24 30:14,19 34:11 42:14 43:12 48:3 2006 (2) 34:12 43:20 2007 (3) 37:3 49:15,17 2009 (4) 1:18 2:4 128:22 131:20 22 (1) 130:3 23712 (1) 1:25 240 (7) 14:13,14 19:7 70:2 106:11 127:6 128:8 27th (1) 3:14 <hr/> 3 <hr/> 3 (5) 95:15,16 129:13 130:3 132:7 <hr/> 4 <hr/> 4 (4) 116:15,16 129:15 130:3 45 (1) 130:3 <hr/> 5 <hr/> 5 (3) 117:10 129:3,16 5:12 (1) 128:15 <hr/> 6 <hr/> 6 (1) 130:3 60 (1) 129:11 620 (2) 2:9 3:6 <hr/> 7 <hr/> 7 (1) 130:3 7/15/09 (1) 132:3 77 (1) 129:12
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<div><div>8</div><div>8th (1) 112:4</div><div>9</div><div>95 (1) 129:13</div><div>98 (1) 130:3</div></div>				
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